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NASHVILLE, TENNESSEE

2004 DEC -2 PM 3: 34

December 2, 2004

T.R.A. DOCKET ROOM

IN RE. *Petition of King's Chapel Capacity,*) Docket No. 04-00335
LLC for Certificate of Convenience and)
Necessity to Serve an Area in Williamson,)
County, Tennessee Known as Ashby Community)

MOTION TO HOLD PROCEEDINGS IN ABEYANCE

SUMMARY

This proceeding arises out of a legal dispute between Tennessee Wastewater Systems, Inc. ("TWS") and the developers of a new, residential subdivision in Williamson County.

Essentially, the developers contracted with TWS to install a sewer system but, although the system is now substantially complete, the developers refuse to pay for it. As a result, TWS has been forced to sue the developers to enforce the contract. The case is now pending in Williamson County Chancery Court. A copy of the Complaint is attached.

As a strategy to obtain sewer service without paying TWS, the developers have formed their own sewer company, "King's Chapel Capacity, LLC," and have filed a petition with the Authority seeking a certificate of convenience and necessity to provide sewer service to the subdivision. The petition contains no reference to TWS, much less an acknowledgment that TWS already holds a certificate to provide sewer service to that subdivision. Moreover, the applicant even claims that the newly built system, which was constructed by a TWS affiliate under the supervision and pursuant to the certificate of TWS, is now the property of King's Chapel. Petition of King's Chapel Capacity at paragraphs 8 and 3.

Pursuant to T. C. A. § 65-4-203(a), the TRA cannot issue a certificate authorizing a new utility to compete with an existing one unless the Authority first finds that the “facilities of the existing . . . system are inadequate to meet the reasonable needs of the public” or that the incumbent utility “refuses or neglects or is unable” to make such additions as needed to provide service.¹ See People Telephone Co. v. Tennessee Public Service Commission, 393 S.W.2d 285 (1965).

Tennessee Wastewater has caused a new system to be built to provide the requested sewer service.² There is, or should be, no dispute that the new system is adequate to serve the subdivision and that TWS stands ready to begin providing service as soon as the developers fulfill their contractual obligations. Unfortunately, the developers have chosen instead to refuse to pay for the system they requested and, incredibly, now propose to seize and operate the system themselves. Thus, they seek a certificate from this agency. Based on the statutory standard set forth in T. C. A. § 65-4-203(a), the TRA is required to make findings about the incumbent’s ability to provide the requested service and the applicant’s capability to provide service. Those issues, of course, lie at the heart of the pending lawsuit in Williamson County. Until those issues are resolved, the Authority has little choice but to hold these proceedings in abeyance.

¹The statute states, in full

(a) The authority shall not grant a certificate for a proposed route, plant, line, or system, or extension thereof, which will be in competition with any other route, plant, line or system, unless it shall first determine that the facilities of the existing route, plant, line, or system are inadequate to meet the reasonable needs of the public, or the public utility operating the same refuses or neglects or is unable to or has refused or neglected, after reasonable opportunity after notice, to make such additions and extensions as may reasonably be required under the provision of this part

² As noted in the Complaint, paragraphs 14-18, the system was built to allow TWS to serve the new subdivision pursuant to the certificate issued to TWS by the Authority. Under state law, no utility “shall establish or begin the construction of” any line, plant or system “without first having obtained” a certificate from the Authority T.C.A. §65-4-201(a). Thus, although King’s Chapel now claims that the new system was constructed by the developer and then transferred to King’s Chapel (Application, paragraph 2), TWS is the only utility legally authorized to have built this system

STATEMENT OF FACTS

As the attached Complaint indicates, the factual circumstances surrounding this dispute are somewhat complex, made more so by the multiplicity of entities involved.³ Rather than repeat the descriptions of each of these entities, TWS refers the Hearing Officer to paragraphs one through ten in the Complaint. For purposes of this Motion, it is sufficient to note that the Petitioner, King's Chapel Capacity, LLC, is owned by Charles Pinson, John Powell and Elaine Powell. (Petition, paragraph 10). These are the same individuals who are named as defendants in the Complaint and who are identified as the developers, through various entities, of a Williamson County subdivision commonly known as "Meadowbrook Subdivision." As Tennessee Wastewater noted in its petition to intervene, the "Meadowbrook Subdivision" is within the service area of TWS and is the same property described as the "Ashby Communities development" in the application filed by King's Chapel Capacity.

In November, 2003, TWS entered into a contract entitled "Sewer Contract for Meadowbrook Subdivision." The contract, a copy of which is attached to the Complaint, provides that Powell, the developer, will pay for the construction of a sewer system to be built in accordance with the specifications of TWS, state, and local laws.⁴ Once the system has been completed, the contract provides that TWS will repair and maintain the total system as required by the Tennessee Department of Environment and Conservation and the Tennessee Regulatory

³ Fortunately, the TRA is not limited in its investigation by artificial legal distinctions among affiliated entities. See Tennessee Public Service Commission v. Nashville Gas, 551 S.W.2d 315, 321 (Tenn. 1977); affirmed in BellSouth Advertising and Publishing v. Tenn. Regulatory Authority, 79 S.W.3d 506, 515-516 (Tenn. 2002).

⁴ The actual construction work was performed by Pickney Brothers, Inc., an affiliate of TWS and a licensed contractor in Tennessee. Financing for the construction was arranged through On-Site Capacity Development Company, another TWS affiliate. As the system was built and as new lots in the subdivision are sold, the contract requires the developers to pay On-Site for the construction work. As set forth in the Complaint, the developers have paid less than half of the amount presently owed and less than one-fourth of the total amount to be paid following the sale of all the lots. At this time, the developers have refused all further payments and now attempt to seize from TWS both the system and the right to operate it. Complaint, paragraphs 16-22.

Authority. As set forth in the Complaint, the contract also incorporates, by reference, applicable state and local regulations regarding the operation of utilities. These regulations require that, once the system is complete, the land and easements on which it sits will be conveyed to the system operator which, in this case, is TWS.⁵

The sewer system is now substantially complete but the developer has failed to pay the contract amount or to turn the land and easements over to TWS.

As a result, TWS has sued the developers, including the applicant, King's Chapel, for damages, declaratory and injunctive relief. Count I alleges that the defendants have breached their contract with TWS. Count II alleges a civil conspiracy among the defendants to "defraud, convert and obtain the Plaintiffs' property by . . . the submission of the Application to the TRA" in which the defendants "assert ownership and control" over the system. Count III asks that the Court declare TWS the owner of the sewer system. Count IV asks the Court to order the defendants to convey to TWS the real property on which the system sits.

ARGUMENT

Based on the allegations in the Complaint, as well as the Petitioner's own statements to the TRA, it is clear that the TRA cannot and should not attempt to resolve the legal issues now pending before the Chancery Court. The Petitioner apparently agrees, arguing that the validity of the contract between the utility and the developer "is not the proper subject of review by the

⁵ See Complaint, paragraph 25. See also memo from Ms. Kristi Earwood, attorney for Williamson County, to Rogers Anderson, Williamson County Mayor, October 8, 2004. (A copy of this memo is attached to the letter from TWS attorney Sharon Jacobs to TDEC, described in footnote 6 herein and attached to this motion.) In the memo, Ms. Earwood explains that TWS and Mr. Powell "have become embroiled in a contractual dispute" involving, among other things, ownership of the newly built sewer system. See memo at pp. 2 and 5. She notes that Williamson County regulations require that the same entity both own and operate the system and, therefore, until this conflict between TWS and Mr. Powell is resolved, she "cannot recommend to the Williamson County Planning Commission that a clear utility provider is even available." Memo, at 4. Similarly, it appears that the TRA can make no final determination about the availability of service in the Meadowbrook subdivision until the ownership issue is resolved.

TRA.” See Response of King’s Chapel to the Petition to Intervene, at 6. The Petitioner argues emphatically that the TRA “does not have jurisdiction over the contract” and that a “court of law” is the proper place to adjudicate issues relative to the contract. Id., at 17. At the same time, King’s Chapel charges that TWS, by filing the contract with the TRA, “improperly seeks enforcement and recognition of the contract” by the TRA. Id., at 6. This statement implicitly acknowledges that the TRA cannot rule on the pending application without addressing such contract-related issues as the adequacy and ownership of the existing facilities and the ability and willingness of TWS to provide the requested service.

The legal issues before the Court and those before the TRA are inextricably intertwined. King’s Chapel claims (id., at 6) that TWS has “not alleged an ability to provide service to their area and has failed to allege an intention to build any facility to provide service to the area in question.” The applicant then argues that it alone “has the facility and ability to service the area.” Id. That all depends, of course, on the outcome of the pending lawsuit and the Court’s decision as to which entity has the right to own and operate the system.⁶ It is impossible to expect the TRA to rule on the Petitioner’s various arguments until after the Court has acted. In fact, as alleged in Count II of the Complaint, the very filing of the application and its pursuit before the TRA may ultimately be found to be evidence of an illegal conspiracy to deprive TWS of its property. The TRA must not go forward under these circumstances without guidance from the Court.

⁶ There are other ongoing proceedings which will also affect this application. At this time, only TWS holds a permit from the Tennessee Department of Environment and Conservation (“TDEC”) for the operation of the Meadowbrook system. No such permit may be issued to King’s Chapel unless and until TDEC terminates the permit of TWS, a process which TDEC may or may not attempt and, if attempted, will also involve lengthy legal proceedings. See letter to John Powell from Edward Polk, Manager, Permit Section of the Division of Water Pollution Control and response from Sharon Jacobs, counsel for TWS, to Mr. Polk. Copies of both letters are attached.

CONCLUSION

For these reasons, the TRA should postpone further action on this application pending the outcome of the attached lawsuit.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 

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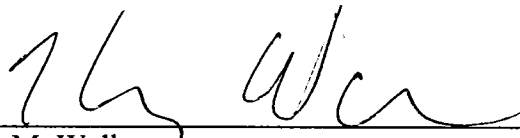
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via U.S. mail, postage prepaid, to:

Richard Militana
Militana & Militana
5845 Old Highway 96
Franklin, TN 37064

Charles B. Welch, Jr.
Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC
Historic Castner-Knott Building
618 Church Street, Suite 300
Nashville, TN 37219

on this the 2nd day of December, 2004.



Henry M. Walker

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY
AT FRANKLIN

FILED
WILLIAMSON COUNTY
CLERK & MASTER

 **COPY**

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ENTERED

Case No.

31074

TENNESSEE WASTEWATER SYSTEMS,
INC. f/k/a ON-SITE SYSTEMS, INC. and
ON-SITE CAPACITY DEVELOPMENT
COMPANY,

Plaintiffs,

V.

J. POWELL DEVELOPMENT, LLC, JOHN
POWELL, ELAINE POWELL, C. WRIGHT
PINSON, ASHBY COMMUNITIES, LLC,
HANG ROCK, LLC, ARRINGTON
MEADOWS, LLC, and KINGS CHAPEL
CAPACITY, LLC

Defendants.

VERIFIED COMPLAINT

Come now the Plaintiffs, Tennessee Wastewater Systems, Inc., formerly known as On-Site Systems, Inc., and On-Site Capacity Development Company, and sue J. Powell Development, LLC, John Powell, Elaine Powell, C. Wright Pinson, Ashby Communities, LLC, Hang Rock, LLC, Arrington Meadows, LLC, and Kings Chapel Capacity, LLC. For cause of action, the plaintiffs would show to the Court as follows:

A. PARTIES

1. Tennessee Wastewater Systems, Inc. is a Tennessee for-profit corporation, formerly known as On-Site Systems, Inc. ("TWS"). TWS is a public utility, authorized by the Tennessee Regulatory Authority ("TRA") to provide wastewater treatment systems within the bounds of the Milcrofton Utility District in Williamson County, Tennessee. TWS's principal place of business is in Davidson County, Nashville, Tennessee.

2. On-Site Capacity Development Company is a Tennessee general partnership ("On-Site"). On-Site has common ownership with TWS, whose purpose is to develop and finance opportunities for TWS to provide wastewater treatment systems in Tennessee within the areas for which it is an approved TRA service provider. On-Site's principal place of business is in Davidson County, Nashville, Tennessee.

3. J. Powell Development, LLC is, based upon information and belief, a non-existent entity that is not registered with the Tennessee Secretary of State ("Powell Development"). John Powell, a resident of Williamson County, Brentwood, Tennessee, has represented himself to On-Site and TWS as the owner of Powell Development.

4. John Powell is an individual who resides, based upon information and belief, in Brentwood, Tennessee, and whose principal place of business is 1413 Plymouth Drive, Brentwood, Tennessee ("Mr. Powell").

5. Elaine Powell is an individual who resides, based upon information and belief, in Brentwood, Tennessee, and whose principal place of business is 1413 Plymouth Drive, Brentwood, Tennessee ("Mrs. Powell"). Mrs. Powell is, based upon information and belief, married to Mr. Powell.

6. C. Wright Pinson is an individual who resides, based upon information and belief, in Nashville, Tennessee at 408 Charles Gate Court. ("Dr. Pinson").

7. Ashby Communities, LLC is, based upon information and belief, a Tennessee limited liability company, registered with the Tennessee Secretary of State, as of its formation date of May 13, 2004 ("Ashby"). Ashby is its own registered agent for service, and its address is listed as 1413 Plymouth Drive, Brentwood, Tennessee.

8. Hang Rock, LLC is, based upon information and belief, a Tennessee limited liability company, registered with the Tennessee Secretary of State, as of its formation date of November 14, 2003 ("Hang Rock"). Hang Rock's agent for service is Mrs. Powell, and the address for service of which is listed as 1413 Plymouth Drive, Brentwood, Tennessee. Hang Rock is the owner of real property located in Williamson County, Tennessee, comprised of approximately 89.71 acres, located north of Highway 96 and east of State Route 252 ("Hang Rock Property").

9. Arrington Meadows, LLC is, based upon information and belief, a Tennessee limited liability company, registered with the Tennessee Secretary of State, as of its formation date of November 13, 2002 ("Arrington"). Arrington's agent for service is Mrs. Powell, and the address for service of which is listed as 1413 Plymouth Drive, Brentwood, Tennessee. Arrington is the owner of real property located in Williamson County, Tennessee, comprised of approximately 15 acres, located north of Highway 96 and east of State Route 252, adjacent to the Hang Rock Property ("Arrington Property").

10. Kings Chapel Capacity, LLC is, based upon information and belief, a Tennessee limited liability company, registered with the Tennessee Secretary of State, as of its formation date of April 13, 2004 ("Kings Chapel"). Kings Chapel is its own agent for service, and the address for service of which is listed as 1413 Plymouth Drive, Brentwood, Tennessee. Kings Chapel is, as set forth in a petition it has filed with the TRA, to operate wastewater disposal systems, an affiliate of Ashby.

B. JURISDICTION AND VENUE

11. This Court has jurisdiction over this cause of action pursuant to T.C.A. § 16-11-101.

12. Venue is proper in this Court pursuant to T.C.A. §§ 20-4-101 and 20-4-103.

C. FACTS

13. TWS and On-Site work with a related entity, Pickney Brothers, Inc., a Tennessee corporation that is also a general contractor licensed with the State of Tennessee ("Pickney Bros."). Pickney Bros. has common ownership with TWS and On-Site, and its purpose is to perform the general contracting work for wastewater treatment systems that are developed by On-Site and operated by TWS.

14. In 2003, the owners of On-Site, TWS and Pickney Bros. began discussions and negotiations with Mr. Powell, Mrs. Powell and Dr. Pinson, purportedly representing Powell Development, regarding a subdivision it was developing in Williamson County, Tennessee, commonly known as "Meadowbrook Subdivision" ("Meadowbrook"). Based upon information and belief, Meadowbrook was to consist of the Hang Rock Property and certain portions of the Arrington Property. The plat for Meadowbrook was approved by the Williamson County Planning Commission on October 9, 2003.

15. Powell Development, through Mr. Powell, Mrs. Powell and Dr. Pinson, represented itself as the developer of Meadowbrook. Based upon information and belief, and subsequent representations of the defendants, Powell Development is a non-existent entity, and Ashby was the actual developer. Regardless, the real property at issue was owned by Hang Rock and Arrington.

16. Powell Development, through Mr. Powell, Mrs. Powell and Dr. Pinson, on behalf of itself and Hang Rock and Arrington, and On-Site and TWS, on behalf of themselves and Pickney Bros., entered a contract for the development of a wastewater treatment system ("the System") for Meadowbrook on or about November 3, 2003 ("the Contract"). Powell

Development was identified in the Contract as the "developer," TWS as the "utility" and On-Site as the "contractor." On-Site's and TWS's intentions were, as they had in other Williamson County, Tennessee wastewater projects, to use Pickney Bros., its related entity that is a licensed general contractor, to do the actual construction work on the System. The Contract provided for Powell Development to pay On-Site and TWS a flat fee of \$550,000, during the course of construction of the sand filtration and drip irrigation portions of the System, and additional fees of \$3,366 per Meadowbrook lot, as and when sold to the end user. The subdivision plans provided for approximately 215 lots to be developed and sold, thus resulting in additional fees eventually owed totaling \$723,690. The Contract is attached as Exhibit 1.

17. Hang Rock and Arrington were third party beneficiaries of the Contract, as the owners of the real property comprising Meadowbrook, and on which the System was to be built, which enabled the development of the non-System portions of Meadowbrook.

18. On-Site performed under the Contract, causing Pickney Bros. to commence construction of the System on November 12, 2003. Consistent with the Contract terms, On-Site submitted a pay request for \$250,000, to Powell Development, on December 10, 2003. That pay request is attached as Exhibit 2.

19. TWS performed under the Contract, supervising, inspecting and approving the construction of the System by Pickney Bros., as commissioned by On-Site.

20. In response to the pay request submitted by On-Site to Powell Development, Hang Rock paid On-Site \$250,000 on or about January 6, 2004. A copy of that check is attached as Exhibit 3.

21. Pickney Bros. completed construction of the sand filtration and drip irrigation portions of the System on or before February 10, 2004. Therefore, as set forth in the Contract, as

of February 10, 2004, On-Site had satisfied its obligations to Powell Development with respect to the above-referenced flat fee, and was entitled to have been paid the entire remaining portion of the flat fee (i.e., \$300,000) during to course of said construction. Powell Development has failed to pay any portion of said sum, which sum is currently owing. Powell Development is also obligated to pay the remainder of the contracted funds when the lots are sold.

22. Based upon information and belief, and prior communications between On-Site and Powell Development representatives, Powell Development takes the position it does not have to pay On-Site the remaining fee because On-Site is not a licensed general contractor. On-Site representatives have clearly explained that Pickney Bros., which is a licensed general contractor, built the System, on On-Site's behalf. Regardless, Powell Development has refused, and continues to refuse, to pay On-Site for the work performed under the Contract.

23. On-Site and Powell Development had a contract for On-Site to develop the System at Meadowbrook, which On-Site completed. Powell Development breached the Contract by failing to pay to On-Site the \$300,000 currently owing thereunder.

24. Hang Rock and Arrington were third party beneficiaries to the Contract, and have enjoyed the benefit of On-Site's completion, through Pickney Bros., of the sand filtration and drip irrigation portions of the System. Arrington owns the real property on which the System has been constructed, and has retained ownership of that real property, despite not having paid, either individually or through Powell Development, for the construction of the System. Hang Rock, as the adjacent real property will benefit from the System, and is currently being developed to use the System.

25. The Contract also obligates the parties to adhere to state and local regulations regarding the operation of utilities. The applicable regulations require that, once the System is

complete, the System and land on which it sits be conveyed to the operator which, in this case, is TWS. Powell Development, individually and through Hang Rock and Arrington, has failed to convey said real property, and thus continues to control and own that real property, despite the System itself being owned by TWS.

26. In addition to refusing to fulfill the obligations under the Contract, Mr. Powell, Mrs. Powell and Dr. Pinson, individually, and through other entities, including Kings Chapel, have submitted an application with the TRA requesting a Certificate of Public Need and Convenience to operate a wastewater treatment and disposal system for a subdivision identified therein as the "Ashby Communities development" ("the Application"). Based upon information and belief, the Ashby Communities development is, in fact, Meadowbrook, and the wastewater treatment and disposal system Kings Chapel seeks to operate is the System, for which On-Site has not been paid, and which, pursuant to the Contract, TWS owns and has a right to operate. The Application, which is attached as Exhibit 4, identifies Mr. Powell, Mrs. Powell and Dr. Pinson, as the owners and financiers of Kings Chapel.

27. Mr. Powell, Mrs. Powell and Dr. Pinson, individually, and through the other defendants, including Ashby, Hang Rock, Arrington and Kings Chapel, have attempted, and continue to attempt, to interfere with TWS's rights, pursuant to its certificate to operate wastewater disposal systems in Williamson County, Tennessee, to operate said systems. The Defendants' actions to interfere with TWS's operations include, but are not limited to, its submission of the Application to the TRA, in which it does not reference or mention the fact that the subject system is owned by another utility, or even that there is a dispute about that ownership and the rights to serve the area are held by TWS.

28. The Defendants, through the Application, have attempted, illegally, to obtain control and ownership of the System, contrary to the interests and rights of On-Site and TWS, based upon the Contract and TWS's authorization as a public utility, to operate the System.

D. CAUSES OF ACTION

COUNT I. BREACH OF CONTRACT

29. On-Site and TWS incorporate the factual allegations set forth in paragraphs 1-28 herein above by reference.

30. On-Site, TWS and Powell Development had a contract for the development and construction of the System, for certain payments to be made based upon that development and construction, and for the real property on which the System was built to be conveyed to TWS. Powell Development has breached the Contract by failing to make the contracted for payments, and also by failing to transfer ownership of the real property on which the System rests, to TWS.

31. Mr. Powell, Mrs. Powell and Dr. Pinson, through counsel, have represented that Powell Development was named as the party in interest in the Contract in error, and that the actual party in interest is Ashby. Thus, Ashby is additionally responsible to On-Site and TWS for the breach of contract failure to satisfy the developer's obligations thereunder.

32. Mr. Powell, Mrs. Powell and Dr. Pinson are individually responsible to On-Site and TWS for the failure to adhere to the terms of the Contract because Mr. Powell signed the Contract, on behalf of Powell Development, which was a nonexistent entity, and he, along with Mrs. Powell and Dr. Pinson, purported to represent Powell Development prior to the signing of the Contract, and throughout the parties' relations with each other. In addition, Ashby, the entity since represented as the real party in interest, was non-existent at the time the Contract was

executed, and the parties were negotiating. Thus, Mr. Powell, Mrs. Powell and Dr. Pinson are individually liable for the obligations of Powell Development and Ashby.

33. Hang Rock and Arrington are third party beneficiaries under the Contract, and had taken on some or all of Powell Development's obligations including, but not limited to, paying the fees owed to On-Site for the construction of the System. Hang Rock and Ashby are therefore also responsible to On-Site and TWS for the breach of the Contract upon which this action is based.

34. Powell Development's, Mr. Powell's, Mrs. Powell's, Dr. Pinson's, Ashby's, Hang Rock's and/or Arrington's failure to adhere to the terms of the Contract will cause, and is causing, On-Site and TWS damage including, but not limited to, the loss of funds due and owing under the Contract, as well as the lost opportunity to operate the system.

COUNT II. CIVIL CONSPIRACY

35. On-Site and TWS incorporate the factual allegations set forth in paragraphs 1-34 herein above by reference.

36. The Defendants' refusal to pay On-Site for the System, and the submission of the Application to the TRA, to assert ownership and control over the System, as herein described above, were carried out as a part of a wrongful and unlawful conspiracy to defraud, convert, and obtain the Plaintiffs' property by fraudulent and unlawful means and, as a result thereof, the Defendants have committed the tort of unlawful conspiracy under the common law of the State of Tennessee.

37. The Defendants acted in concert through their separate roles within their deceptive scheme to engage On-Site, refuse to pay On-Site for the System, refuse to allow TWS


to take its proper role as the utility operating the System, and obtaining permission to take over the System.

38. As a direct and proximate result of the Defendants' concerted action, as set forth hereinabove and hereinafter, On-Site and TWS sustained injuries and damages for which they are entitled to recover compensatory and punitive damages.

COUNT III. TENNESSEE DECLARATORY JUDGMENT ACT

39. On-Site and TWS incorporate the factual allegations set forth in paragraphs 1-38 herein above by reference.

40. TWS is a "person" as defined in the Tennessee Declaratory Judgment Act ("the Act"), at T.C.A. § 29-14-101, et seq. It is further an interested person under a written contract, and entitled to have its rights, status and legal relations established thereunder, entitling it to bring an action pursuant to the Act, as set forth at T.C.A. § 29-14-103 and 104.

 41. TWS, pursuant to the Act, requests the Court declare that it is the owner of the System.

COUNT IV. INJUNCTIVE RELIEF

42. On-Site and TWS incorporate the factual allegations set forth in paragraphs 1-41 herein above by reference.

43. Upon the declaration by the Court, pursuant to the Act, that TWS is the owner of the System, TWS requests the Court enter an injunction, ordering Powell Development, Mr. Powell, Mrs. Powell, Dr. Pinson, Ashby, Hang Rock, Arrington and/or Kings Chapel to convey to it the real property on which the System sits. Without said relief, TWS will continue to suffer irreparable injury for which no amount of damages are sufficient to compensate it.

PRAYER FOR RELIEF

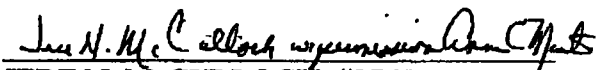
WHEREFORE, premises considered, On-Site and TWS pray for the following relief:

1. That proper process issue and be served upon the defendants;
2. That the defendants be required to answer;
3. That this Court award On-Site and TWS damages and other relief, to which it is entitled, pursuant to the Contract;
4. That this Court declare TWS to be the owner of the System;
5. That this Court enter an injunction ordering the defendants to convey the real property on which the System sits, to TWS; and
6. That this Court grant On-Site and TWS such other and additional relief as it deems just and equitable.

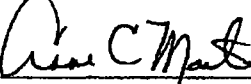
**THIS IS THE PLAINTIFFS' FIRST APPLICATION FOR
EXTRAORDINARY RELIEF IN THIS MATTER.**

Respectfully Submitted,

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BONE McALLESTER NORTON, PLLC

BY: 
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KENNETH M. LARISH, #23154
511 Union Street, Suite 1600
Nashville, TN 37219
(615) 238-6300
Attorneys for On-Site and TWS

VERIFICATION AND OATH

I, CHARLES PICKNEY, being first duly sworn according to law, make oath and affirm that I have read the foregoing Verified Complaint, know the contents thereof, and that the same is true and correct to the best of my knowledge, information and belief.

TENNESSEE WASTEWATER SYSTEMS, INC. (f/k/a
ON-SITE SYSTEMS, INC.)

BY:



CHARLES PICKNEY, PRESIDENT

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

Before me, ANNE C. MARTIN, of the state ~~and~~ county aforementioned, personally appeared CHARLES PICKNEY, with whom I am personally acquainted, and who, upon oath, acknowledged herself to be President of Tennessee Wastewater Systems, Inc., formerly known as On-Site Systems, Inc., the within named plaintiff, a Tennessee for-profit corporation, and that he as such President, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as President.



NOTARY PUBLIC

My Commission Expires:

1-26-08

We are surety for all court costs.

BONE McALLESTER NORTON, PLLC

BY:



ANNE C. MARTIN, #15536

SEWER CONTRACT FOR MEADOWBROOK SUBDIVISION

This AGREEMENT made and entered into this 3rd day of November 2003, by and between Onsite Systems, Inc., hereinafter referred to as "Utility", Onsite Capacity Development Company hereinafter referred to as contractor, and J.Powell Development LLC, hereinafter referred to as "Developer".

WITNESSETH

For and in consideration of the construction costs hereinafter mentioned and the mutual promises of the parties hereinafter contained, particularly that Developer will be responsible for construction of collection system upstream of the pump station, the Contractor will be responsible for the design, and construction of collection system, pump station, force main from pump station to treatment system, the recirculating gravel filter and drip irrigation disposal system; the Utility will be responsible for repair, maintenance and replacement of said sewers herein provided for, and to maintain the total system as required by the Tennessee Department of Environment and Conservation, Water Pollution Division and the Tennessee Regulatory Authority; the developer to pay for cost of construction and other cost as specified herein, and other good and valuable considerations, the receipt of all which is acknowledged, the parties hereto have entered into the following agreement:

The developer is to install collection system, etc. in accordance with drawings, plans, and specification as shown on the plat of subdivision which is attached hereto, and the plans and specification as approved by the Utility's engineers, the State of Tennessee and the Williamson County Planning Commission which said plans and specifications are attached hereto and made a part of this contract.

The contractor is to perform all of the necessary work for the design and installation of treatment and disposal systems, completely install the same at no cost whatsoever to the Utility, all in accordance with plans and specifications hereinabove referred to, and for that purpose has entered into a contract for completion of this work.

All construction begun, continued and completed hereunder shall be subject to the supervision and approval of the Utility's engineers and representatives who shall have a continuous right of inspection throughout the progress of the work. No pipe, fittings, or connection shall be covered until inspected and approved by the Utility. It is specifically understood and agreed that all installation costs, for said installation of the sewer collection system main lines, filter system and drip irrigation system will be paid for by the Developer. The homebuilder will pay for the cost of installing the tanks, pumps and associated equipment at each house.



In the event of a change in the drawings or plat of the subdivision by agreement of the parties, prior to the actual installation of the facilities provided for in the plans and specifications, then such change shall be deemed incorporated in this contract, as though set out verbatim herein, and a copy of said changed plans shall be attached to this contract and made a part hereof. It is further understood that such changed plans, if any, may be looked to for a total description of the properties conveyed to the Utility by the Developer.

The Developer further agrees:

That the Developer will immediately repair at its own cost and expense all breaks, leaks or defects of any type whatsoever arising in the collection system from any cause whatsoever occurring within one (1) year from the date of acceptance by "Utility" of said lines, mains, valves, fittings, etc., which are constructed by Developer.

The developer will pay a \$550,000 for the construction of the sand filter, drip irrigation system as construction progresses. Payments will be made on monthly basis no later than 5 days after bank has funded to developer that portion of completed work. Developer will pay an additional \$3366 per lot, when lot is sold to end user (homeowner) for all lots located in the property owned by Hang Rock, LLC and Arrington Meadows LLC.

Developer will be responsible for posting all performance bonds and cost relating to such bonds, required by Williamson County concerning Meadowbrook Wastewater System.

The developer as a part of his construction contract shall install Service connections for all service sewers to the property line of each lot in said subdivision.

Upon the completion of the installations contracted for herein, the Developer and contractor hereby represents and warrants that no liens or encumbrances shall remain for the installation of said work and that Utility will be held harmless for any claims arising from the construction of said system.

The Utility has contracted with Jarrett Concrete Products and Supply (Hereinafter Jarrett) of Ashland City (792-9332) and Effluent Collection Supply of Smyrna- 793-1291 (Hereinafter ECS) to supply most of the materials for the septic tank installation.

Jarrett will supply all Septic Tanks required for each lot. All houses six bedrooms or less will require a 1500-gallon tank with a four-inch Orenco gravity filter. Larger house will be considered on a case by case basis. The price for 1500-gallon tanks delivered and set will be \$850 each. Prices for tanks are guaranteed not to increase more than 5% per year. ECS or Jarrett may supply Effluent filters, risers and lids. ECS prices are as follows:

Four-inch gravity filters -\$68.00
24" - DIA x 24 tall riser - \$59.00
24" - DIA Lid - \$52.72

If pumps and controls are needed, they will be supplied at the usual contractor price.
Sales tax not included in above prices.

By the execution of this agreement, the Developer hereby represents and warrants that said sewerage system will be installed in accordance with the foregoing provisions and the plans and specifications, and that written easements will be provided five feet (5') in width on each side of the center line of all sewers installed hereunder other than sewers installed along the public right-of-way.

IN WITNESS WHEREOF, the parties hereto have entered into this agreement as of the day and date first above written.

By: [Signature] Date: 10-3-03
Onsite Systems, Inc.
Robert Pickney, Vice President

By: [Signature] Date: 11-8-03
Developer - _____

By: [Signature] Date: 10-3-03
Onsite Capacity Development Company
Robert Pickney - Managing Partner

ONSITE CAPACITY DEVELOPMENT COMAPNY

Pay Request - December 10, 2003

Percent Complete as of 12/10/03

Item Description	Unit	% Compl.	Total	Comp to Date
Site Prep	LS	90	\$ 30,000	\$ 27,000
Sand Filter-Control System	LS	65	745,000	484,250
Drip Disposal System	LS	90	110,250	99,225
Final Grading/Clean-up	LS	0	35,000	0

Total 5920,250 \$ 610,475

Total Complete to Date: \$610,475

As per Contract - \$250,000 Currently Due
Remainder due when lots are closed



Robert J. Pickney P.E.

7638 River Road Pike Nashville TN 37209-5733
(615) 356-7194 Fax (615) 356-7295



Henry Rock LLC
1413 8th Avenue SE
Buckhead, GA

PAY
TO THE
ORDER OF

On Site Carpentry

DATE January 6, 2013

Two Hundred Fifty Dollars and no/100 \$250.00.00

DOLLARS

FIRST
NATIONAL BANK OF
TENNESSEE

FOR DEPOSIT ONLY - PAY TO THE ORDER OF

FOR OS Powell Development

⑆064101398⑆ A0055498 E⑆⑆

Wright Finson

Wright Finson

EXHIBIT
3

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**PETITION OF KING'S CHAPEL)
CAPACITY, LLC FOR CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO)
SERVE AN AREA IN WILLIAMSON)
COUNTY, TENNESSEE KNOWN AS)
ASHBY COMMUNITY)**

DOCKET NO. _____

PETITION

King's Chapel Capacity, LLC ("Petitioner"), by its undersigned counsel, pursuant to Tennessee Code Annotated, §65-4-201 et seq, and Chapter 1220-1-1-03 of the Tennessee Regulatory Authority's ("Authority") Rules and Regulations, submits its application for a Certificate of Public Convenience and Necessity to operate wastewater disposal systems. The Petitioner contends that approval of the Application is in the public interest in that its services will benefit consumers and, in support thereof, the Petitioner states as follows:

1. Petitioner is a limited liability company created and existing in accordance with the laws of the State of Tennessee as evidenced by Exhibit One (1) and incorporated herein by reference.
2. Petitioner is an affiliate of Ashby Communities, LLC, and was created in order to provide wastewater services to the Ashby Communities development. In order to provide for wastewater services, Ashby Communities, LLC has constructed a wastewater system (the "Systems") of approved design by the Tennessee Department of Environment and Conservation ("TDEC") and transferred this wastewater system to Petitioner to operate



3. Petitioner is a public utility as defined in T.C.A. 65-4-101 and subject to the regulation of the Authority. The stock of said utility is privately owned and the utility is not owned or operated by any municipal form of government.
4. Petitioner seeks a Certificate of Convenience and Necessity from the Authority.
5. Petitioner desires to operate as a private utility company and provide wastewater services in Williamson County, Tennessee.
6. Petitioner ultimately anticipates providing wastewater services to 269 single family homes in Williamson County, Tennessee in the service area identified on Exhibit Two (2) attached to this Petition.
7. TDEC, Division of Water Pollution Control has approved the installation of the System to serve Ashby Communities.
8. Wastewater services are not available from any other utility company in the proposed service area. Attached as Exhibit Two (2) to this Petition is a letter from the effected utility and excerpts from the Williamson County, Tennessee comprehensive plan reflecting that the County has no interest in providing wastewater services in the proposed service area.
9. Neither the City of Franklin, or the government of Williamson County, presently have any sanitary sewer service lines that would be affected by the Petitioners proposed wastewater service.
10. The owners of Petitioner are Charles Pinson, John Powell and Elaine Powell. The owners have significant financial assets as shown in Exhibit Four (4) attached to this Petition that are dedicated to provide wastewater service to Ashby Communities. In

addition, the owners of the Petitioner recognize that it may be some time before the customer base of Ashby Communities is of adequate size in order to fully support the annual cost of providing wastewater service. The owners therefore stand ready to provide the additional financial support necessary until the system is self supporting.

11. Petitioner has the managerial capability to provide wastewater service. As shown on Exhibit Five (5) attached to this Petition, John Powell, president, of King's Chapel Capacity, LLC, has successfully managed several companies over a number of years. In addition, the Petitioner has engaged various legal, accounting and regulatory experts to assist it with these managerial duties. Petitioner states that it is aware of all reporting requirements and rules and regulations of the Authority and will comply with these requirements.

12. Petitioner has the technical ability to provide wastewater service. As shown on Exhibit Six (6), James Johnson has been employed by the Petitioner to operate the system. Mr. Johnson has a Class IV wastewater operator permit as required by TDEC and has operated similar systems for Williamson County for over 19 years.

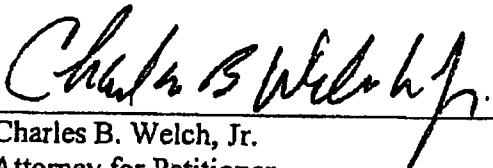
13. The Petitioner has prepared proposed Tariffs, Rules and Regulations, and a Customer Service Application, attached as collective Exhibit Seven (7) for approval by the Authority. Petitioner has adopted the present Rate and Rules & Regulations of similar wastewater utilities under the Authority's jurisdiction. Petitioner states that the rates of these other utilities have already undergone the scrutiny of a formal rate case by the Authority, and are more appropriate to include as the initial billing rates than any other independent analysis that the Company could determine on its own.

WHEREFORE, PETITIONER PRAYS:

1. That the Authority grants a Certificate of Convenience and Necessity.
2. That the Tariff, Rules & Regulations and Customer Service Application be approved for the Petitioner.
3. That this matter be set for hearing.
4. For such other relief as it may be entitled under the premises.

Respectfully submitted,

**FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC**



Charles B. Welch, Jr.
Attorney for Petitioner
618 Church Street, Suite 330
Nashville, TN 37219
(615) 726-1200

EXHIBIT ONE
CERTIFICATE OF EXISTENCE

Secretary of State
Division of Business Services
312 Eighth Avenue North
6th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243

ISSUANCE DATE: 09/29/2004
REQUEST NUMBER: 04273119
TELEPHONE CONTACT: (615) 741-6488

CHARTER/QUALIFICATION DATE: 04/13/2004
STATUS: ACTIVE
CORPORATE EXPIRATION DATE: PERPETUAL
CONTROL NUMBER: 0469590
JURISDICTION: TENNESSEE

TO:
FARRIS MATHEWS BRANAN BOBANGO & HELLEN
618 CHURCH STREET
STE 300
NASHVILLE, TN 37219

REQUESTED BY:
FARRIS MATHEWS BRANAN BOBANGO & HELLEN
618 CHURCH STREET
STE 300
NASHVILLE, TN 37219

CERTIFICATE OF EXISTENCE

I, RILEY C DARNELL, SECRETARY OF STATE OF THE STATE OF TENNESSEE DO HEREBY CERTIFY THAT

"KING'S CHAPEL CAPACITY, LLC"

A LIMITED LIABILITY COMPANY DULY FORMED UNDER THE LAW OF THIS STATE WITH DATE OF
FORMATION AND DURATION AS GIVEN ABOVE;
THAT ALL FEES, TAXES, AND PENALTIES OWED TO THIS STATE WHICH AFFECT THE
EXISTENCE OF THE LIMITED LIABILITY COMPANY HAVE BEEN PAID;
THAT ARTICLES OF DISSOLUTION HAVE NOT BEEN FILED; AND
THAT ARTICLES OF TERMINATION OF THE EXISTENCE HAVE NOT BEEN FILED.

FOR: REQUEST FOR CERTIFICATE

ON DATE: 09/29/04

FROM:
FARRIS MATHEWS BRANAN BOBANGO&HEL(618 CH
618 CHURCH ST
SUITE 300
NASHVILLE, TN 37219-0000

RECEIVED:	FEES	
	\$20.00	\$0.00
TOTAL PAYMENT RECEIVED:		\$20.00

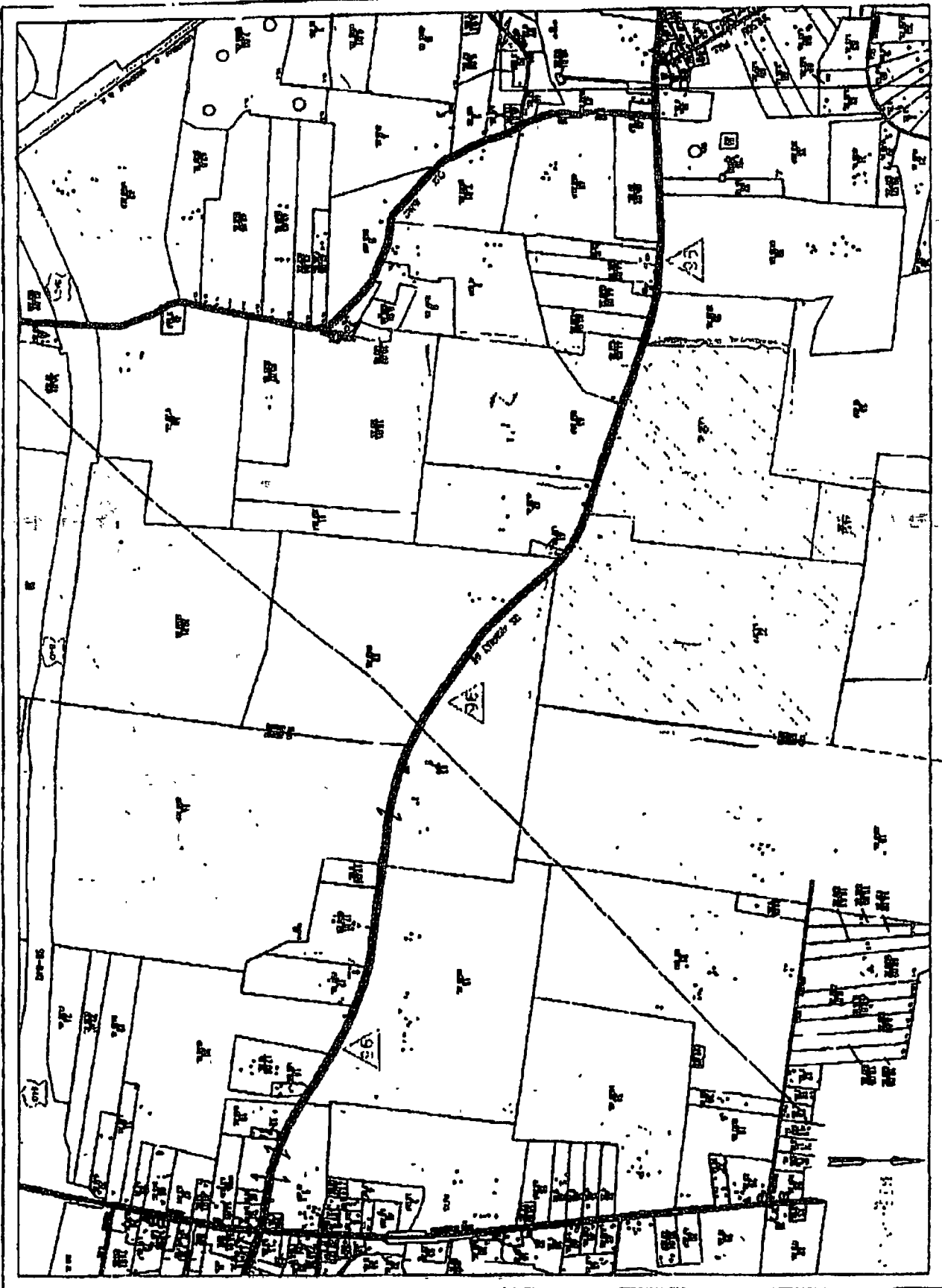
RECEIPT NUMBER: 00003590523
ACCOUNT NUMBER: 00000448



Riley C Darnell

RILEY C DARNELL
SECRETARY OF STATE

EXHIBIT TWO
SERVICE AREA MAPS



N

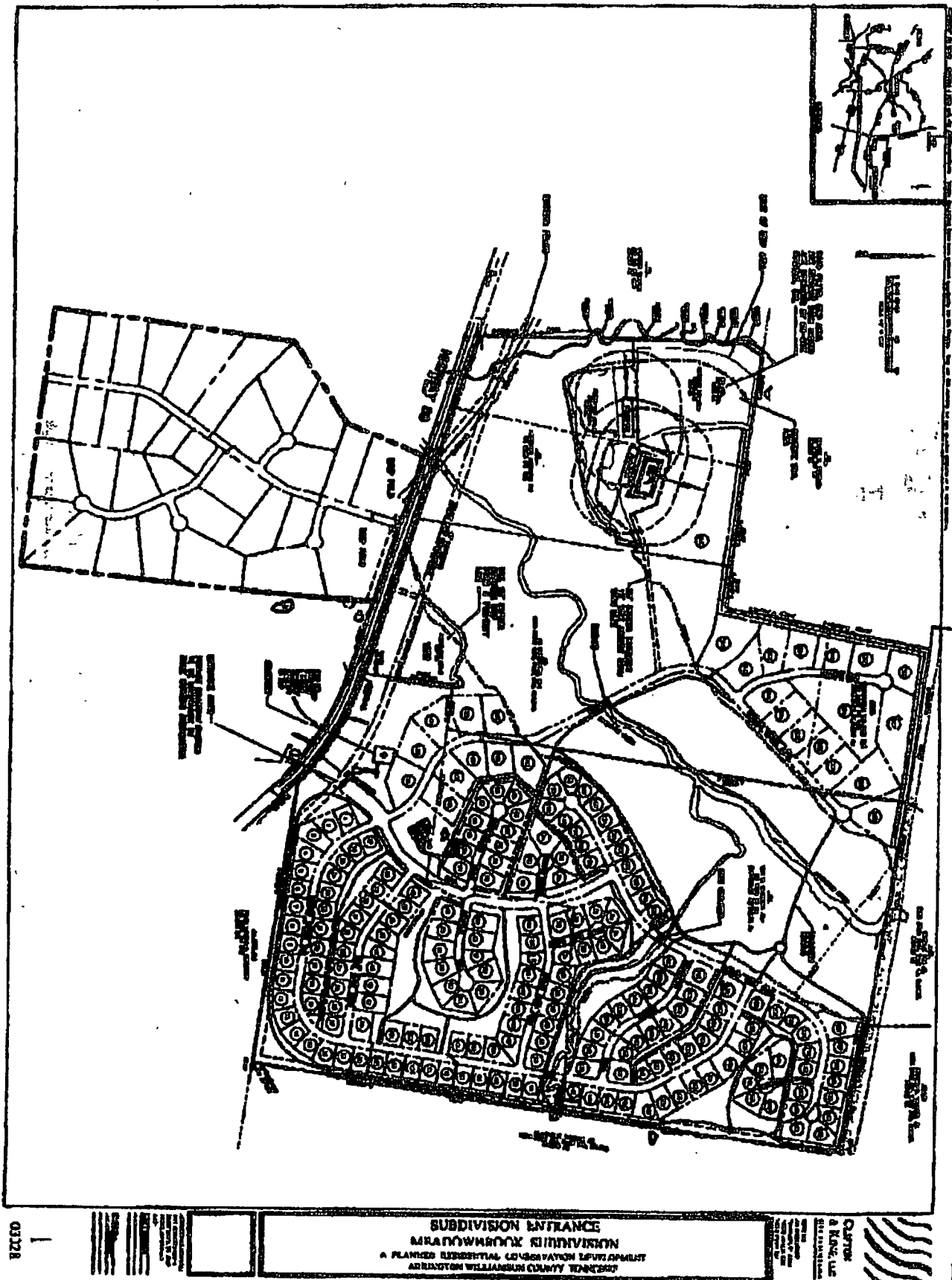


EXHIBIT THREE

UTILITY LETTER AND COUNTY PLAN



September 29, 2004

Mr. John Powell
1413 Plymouth Drive
Brentwood, TN 37027

Dear John:

Milcrofton Utility District does not have authority to provide sewer service within its boundaries. In its order of creation, the District is only authorized to provide water service. I hope this information is helpful to you.

Sincerely yours,

A handwritten signature in cursive script that reads "Carl Scott".

Carl Scott, General Manager

CS/vs

Williamson County, Tennessee
Comprehensive Plan

As the plan relates to Sewer Service

Page 20 attached

Defines areas the county designates to provide Sewer Service for the petitioned area is not included within those designated areas

Page 21 attached

Objectives. In all other suburban and urban areas, developers shall provide land treatment systems. Petitioned area will be serviced by a land treatment system

Page 90 attached

While the county is committed to providing adequate water and sewer service, it is not presently in a position to do so.

Page 105 attached

At the time of adoption of this plan there are no areas in the unincorporated area of the County in which the County is prepared to provide public sewers and a treatment plant.

There is more than one way to provide sewer service and there are many ways in which treatment may be provided. In this case the County initially does not intend to be the provider of sewer facilities.

9. Affordable housing units shall be permitted with a density bonus pursuant to regulations that both limit the total percentage of such units in a neighborhood or subdivision and require that the units be scattered throughout the neighborhood or subdivision. [Division 5300.]
10. Dwellings located on farms and intended for family members shall be treated as a special case to ensure the provision of adequate and affordable dwellings for related agricultural workers. [Section 5400.]

Sewage Treatment

The soils of Williamson County are very poorly suited for the use of septic systems. Since a primary goal of this Plan is environmental protection, it would be very contradictory to require developers and property owners to meet the strong natural resource protection standards of the Zoning Ordinance and yet approve septic systems on inadequate soils. The County is also very concerned with the providing a full range of housing opportunities. The soils are so poor that only very large lot development would be suitable for septic systems in vast areas of the County. The reliance on such systems would effectively raise the cost of housing well beyond the reach of the great majority of County residents.

At the same time, the residents and officials of the County have made it perfectly clear that the County and its taxpayers should avoid having to foot the bills involved in providing necessary facilities and services to new residents and/or subsidizing the profits of the development industry. Few portions of the County are situated so as to be readily connected to the sewage treatment systems of current service providers.

In light of these facts, the County must promote a means of sewage treatment that balances environmental protection, affordable housing, and fiscally responsible development goals. Land treatment systems are ideally suited to meeting these concerns.

GOAL:

To provide sewer service for all areas designated Suburban or Urban on the Growth Management Plan Maps.

The County has five major areas of suburban development proposed on the Land Use Plan Map. They are widely scattered. One is northwest of Fairview. Another is in the extreme northeastern corner of the County, adjacent to Metro. One dispersed area adjoins the City of Franklin on its north, west, and southeast sides. One is located north of Spring Hill, and the final suburban area is designated on both sides of I-65 between

Franklin and Spring Hill. There are several watersheds in some of these areas, so that service is logically divided into different zones. The following objectives guide the techniques used to determine how sewer service is to be provided.

OBJECTIVES:

1. In areas on the Davidson County line or near Brentwood and Franklin where those communities have plants with available capacity, the County shall work with developers and land owners to get logical extensions of existing sewer service into the Suburban or Urban areas designated on the Land Use Plan Map.
2. In all other Suburban or Urban areas, developers shall provide land treatment systems.

As developers begin to develop in the Suburban areas, it is impossible for the County to provide the needed sewers. The County can not afford to establish plants or interceptors in all of the designated areas. Also, the County cannot predict where development is likely to occur first. As a result, developers will have to install the land treatment plants when they get ready to build. The County has set the ground rules for this process. First, the County will review the vicinity and set the service area for the plant--generally using the watershed or a portion of a watershed as boundaries. This will ensure that the plants are designed to service logical areas. The County will provide for recapture or other methods of financing the needed improvements where the developer must service a much larger area than his development (see discussion in Chapter 6 of this Plan). Lastly, the County has established the general guidelines for the development of land treatment systems. The objective is to provide a common method of treatment so that when the County accepts dedication of the facilities, they will be of similar design and result in low operating and maintenance costs for the residents.

In some cases the service areas are logically defined at present. In other instances, the service area will have to be determined when the developer makes application for site plan review to the County. The following policies govern the development of service areas.

POLICIES:

1. The sewer service map designates areas to be served by other governmental entities (Metro or a municipality).
2. Where a proposed development lies within an area designated for service by Metro or one of the municipalities, the developer must either obtain sewer service from these governmental bodies or develop at densities serviceable by septic tanks.

CHAPTER VII

SEWAGE TREATMENT

Introduction

The Growth Management Plan calls for the development of several areas of suburban and urban development. The densities of those areas requires that they be served by public water and sewer. At the time of adoption of this Plan there are no areas in the unincorporated area of the County in which the County is prepared to provide public sewers and a treatment plant. In fact there is great concern on behalf of the County that the streams, creeks and rivers of the County are already carrying as large an effluent load as is possible, and definitely more than is desirable.

There is more than one way to provide sewer service and there are many ways in which treatment may be provided. In this case the County initially does not intend to be the provider of sewer facilities. The County has designated as suburban or urban those areas that should be served. The County will serve as the design review agency and will ensure that facilities which are built by developers and turned over to the County for operation are designed so as to best serve the needs of the County's residents.

While there are some unincorporated areas where sewer extensions from existing facilities are possible, for most areas the best means of providing sewer service to population of the suburban areas will be through the construction of new facilities. The Plan recommends strongly that all such new facilities be land treatment facilities.

The conventional approach to sewerage was "treatment by dilution". This term is, in fact, a misnomer, as it was not treatment, but, simply the hope that the material would disappear if mixed with a sufficient quantity of water. Anybody who has waded the West Harpeth on a summer day will know that Williamson County is not blessed with large amounts of water. Clearly, the dilution approach had to be modified. Technology was the next approach. The idea was to treat the water in a plant to remove at least some of wastes. As Williamson County has grown those communities with sewer plants have found they have had to remove increasing amounts of pollutants. Now, even with very complex facilities, the Harpeth River has reached a point where it can't handle any more nutrients.

Removal of nutrients in treatment plants is a very complex process, furthermore it requires handling the sewerage frequently which creates potential for odor and accidents. Another problem with the conventional treatment plant is in order to remove the pollutants, the various reactions and processes each

When a new house is built, there is up to a year's delay before taxes based on the new construction are collected. A \$0.20 per square foot privilege tax rate on residential property would generate approximately \$350,000 which would pay the first year's cost for a new school. It is estimated that the projected growth will generate the need for a new school each year or approximately 600 students per year in both the County and the Special School Districts. Since 90% of the capital cost for building new schools is borne mostly by commercial and industrial property taxes, and since there is a delay in building commercial property after residents move here, the privilege tax is set to pay for the first two years of the capital cost of building a new school. This should keep the current tax rate for debt retirement at the same level as well as help shift the burden for supporting new schools from farmland and commercial properties which benefit the least from the new schools.

Water and Sewer

While the County is committed to providing adequate water and sewer service, it is not presently in a position to do so. With the approval of a major development in the central suburban area, the County will get into the sewer business. Presently, utility districts and municipalities supply all the water to the unincorporated area. Utility districts and the County share a major problem in the unincorporated areas of the County. Development is, and will continue to be, widely scattered. The water system in most parts of the County is a rural water system designed to provide minimum water to farmsteads, it is not designed to handle the water supply and fire protection needs of estate and suburban development. There is no source of sewer in unincorporated areas on a widespread basis.

In general, the County has made a commitment to get into the sewer business in Suburban and Urban areas of the County. Since all the County is in one or another utility district, it is, in theory, entirely served with water. There are areas where homes continue to rely on wells and the level of water supply available is highly variable.

What is an adequate level of water service? This is an important policy issue. The level of water service which the County will require as a condition of subdivision or zoning approval is based on the character of the area. The rural and estate areas of the County are very low density and will continue to have widely scattered development. In general, the homes will be on very large lots and widely spaced. A rural level of water service, therefore, is appropriate. A rural level of service can be met by either a private well, or an approved public water supply with a real delivery rate for domestic service with a residual pressure of twenty pounds per square inch (psi). There is nothing to stop a developer from seeking a higher level of service (as specified for other areas), that is clearly a marketing decision.

EXHIBIT FOUR

**FINANCIAL ASSETS OF KING'S CHAPEL CAPACITY DEDICATED TO
PROVIDING WASTEWATER SERVICE**



All Things Financial™

Judith L. Hanson
First Tennessee Bank National Association
231 Public Square, Suite 301
P.O. Box 100
Franklin, TN 37065-0100
Ph (615) 790-5183 Fax (615) 790-5186

Memo

From: Judith L. Hanson
To: Hang Rock, LLC
Date: September 29, 2004
Re: Letter of Credit Fees

To date First Tennessee Bank has issued three Letters of Credit for the above referenced customer for subdivision improvements in Kings Chapel. The Underwriting fee for each of these L/Cs was 1% plus courier fees for delivery as per attached.

A handwritten signature of Judith L. Hanson in cursive script, written over a horizontal line.
Judith L. Hanson

OLD BUSINESS - ITEM 1

**KINGS CHAPEL, SECTION 1, REVISION TO PERFORMANCE BOND
AMOUNT FOR SEWER.**

Attachment 1

Letter, Smith Seckman Reid, Inc.

The final plat for this project was approved at the June '04 meeting. Since that time, the County's consultant has discovered that he wrongly factored a portion of the bond amount for sewer. The bonding amounts for sewer should read as follows:

Performance Bond

Collection System: $\$160,360.00 \times 1.5 = \$240,540.00$
Treatment System: $\$505,471.97 \times 1.5 = \$758,208.00$

TOTAL PERFORMANCE BOND \$998,208.00

Back-up Bond (unchanged)

Treatment and Disposal System: $\$434,000.00 \times 1.5 = \$651,000.00$

TOTAL RECOMMENDED BOND AMOUNT \$1,649,748.00

Staff recommends that the revised bond amount be made a part of the record. Furthermore, Staff recommends the remaining bond amounts be re-confirmed in order that their coming review dates will be consistent. Included are:

1. Performance bond for roads, drainage and erosion control in the amount of \$431,000;
2. Performance bond for landscaping in the amount of \$8,400;
3. Posting of funds-in-lieu of detention in the amount of \$28,780; and
4. Verification of the posting of a performance bond for water in the amount of \$122,500 with Milcrofton Utility District.

Reviewer: JH
Date: 08/12/04

EXHIBIT FIVE
OWNER RESUMES

CURRICULUM VITAE

CHARLES WRIGHT PINSON, M.D., M.B.A., F.A.C.S.

Current Positions and Office Address:

C Wright Pinson, M D
H. William Scott Professor of Surgery
Chief Medical Officer
Associate Vice-Chancellor for Clinical Affairs
Director, Vanderbilt Transplant Center
Vanderbilt University Medical Center
1301 22nd Avenue South
Suite 3810 TVC
Nashville, TN 37232-5545

Phone. (615) 343-9324

Date of Birth: May 29, 1952

Educational Background:

1976-1980	M.D.	Vanderbilt University School of Medicine	Medicine
1974-1976	M B.A.	University of Colorado Graduate School of Business Administration	Finance
1972-1974	B A.	University of Colorado	Physics
1970-1972		Miami University	Physics

Postdoctoral Training:

1987-1988	Fellow in Surgery, Harvard University
	Henry Fellow in Transplantation, New England Deaconess Hospital
1986-1987	Fellow in Gastrointestinal Surgery, Lahey Clinic Medical Center
1985-1986	Chief Resident in General Surgery, Oregon Health Sciences University
1983-1984	American Heart Association Postdoctoral Research Fellow, Department of Physiology, Oregon Health Sciences University
1981-1985	Resident in General Surgery, Oregon Health Sciences University
1980-1981	Intern in General Surgery, Oregon Health Sciences University

Academic and Staff Appointments:

2001-present	H. William Scott Professor of Surgery, Vanderbilt University
1990-present	Member, Division of Surgical Oncology, Vanderbilt University
1990-present	Staff Surgeon, Nashville Veterans Affairs Medical Center
1990-2001	Professor of Surgery, Vanderbilt University
1990	Associate Professor of Surgery, Oregon Health Sciences University
1988-1990	Assistant Professor of Surgery, Oregon Health Sciences University
1988-1990	Assistant Professor of Physiology, Oregon Health Sciences University
1988-1990	Staff Surgeon, Portland Veterans Affairs Medical Center
1987-1988	Fellow in Surgery, Harvard Medical School
1986-1987	Fellow in Surgery, Lahey Clinic Medical Center

John Powell

Education

Hendersonville High School 1978
Tennessee Tech University
Cookeville TN 1978 - 1981
Tennessee State University
Nashville 1981 - 1982

1983 President - BJ McAdams Truck line, Little Rock Arkansas.

Structure financing of \$26,000,000.00 purchase of this corporation using several banks and financial institutions across the country Took control completed refinancing of company, then resold back to original owners

1985 Vice Chairman Finance, President Regan's 2nd Inaugural Taste of America

Responsible for all financial accounts and tracking of expenses related to this inaugural event. Managed a volunteer accounting staff of approximately 12, several of which were CPA's

1986 to Present - Trailer Lease, Inc.

1986 Purchased A&R Semi Trailer Rental Nashville, TN.
1991 Purchased Guinns Semi Trailer Rental
1997 Purchased C&G Semi Trailer Rental
1998 Purchased B&H Semi Trailer Rental
1999 Purchased Ashland City Semi Trailer Rental

Negotiated the purchase and financing to acquire all of the above companies for my wife and me.

In 1991, the trailer rental company was renamed from A&R to Trailer Lease, Inc. Today Trailer Lease has the largest market share of business in the Middle Tennessee area. We have that market share because of 18 years of on going service to our customers

During the past several years we have made commercial real estate investments in Davidson County and Williamson County

EXHIBIT SIX
OPERATOR RESUME

JAMES B. JOHNSON

707 Williamsburg Drive

Smyrna, TN 37167
james-johnson@comcast.net

615-355-0279

Education:

B.S. in Biology with minors in Psychology and Sociology and Economics;
Western Kentucky University, Bowling Green, KY., August, 1967.

M.S. in Agency Counseling with emphasis in Criminology, Indiana State
University, Terre Haute, IN., December, 1975.

Professional Training at the Flemming Training Center, Murfreesboro, TN
in Wastewater in 1993, was followed by testing and certification as a
Class IV Wastewater Treatment Operator in 1994. The State issued
license is kept current with Continuing Education Courses.

Experience:

Terre Haute, IN Wastewater Treatment Plant, 1985 to 1990. (Grade IV plant).
Franklin, TN, Wastewater Treatment Plant, 1992 to present. (Grade IV plant).
Goosecreek Inn Wastewater Treatment Plant, 1993 to present. (Grade I
plant)

TravelCenters of America, Franklin, TN. Wastewater Treatment Plant, 1996
to present (Grade I plant)

Bill Rice Ranch Wastewater Treatment Plant, 2003 to present. (Grade II
plant)

Related Coursework:

I have taken numerous State taught and sponsored courses related to
different plant types and operating systems. Also, I have attended classes on
PLC systems as many operating features in wastewater plants are now
computerized. Finally I have received formal instruction on pump and
motor operation and rebuilding.

EXHIBIT SEVEN
PROPOSED TARIFF

1. The proposed tariff is based on the current market prices of the goods and services covered by the tariff.

2. The proposed tariff is based on the current market prices of the goods and services covered by the tariff.

King's Chapel Capacity

Wastewater Service Tariff

TRA #1 Cost of Residential Services

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #1
Effective Date: _____

**King's Chapel Capacity
Operation and Maintenance Costs**

Collection Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
1	Collection System – Tank Pumping	\$3.10	\$3 10
2	Collection System – Equipment Replacement	3.25	3 25
3	Collection System – Preventative Maintenance	1.10	0.00
4	Collection System – Service Calls	1 50	0.00
	Total	\$8.95	\$6.35

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #2
Effective Date: _____

**King's Chapel Capacity
Treatment System Costs**

Sand/Gravel Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
5	Treatment System – Tank Pumping	\$2 53	\$0.00
6	Treatment System – Equipment Replacement	0 80	0.00
7	Treatment System – Preventative Maintenance	2.90	2 90
	Total	\$6.23	\$2.90

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #3
Effective Date _____

**King's Chapel Capacity
Treatment System Costs**

Lagoon Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
8	Treatment System – Preventative Maintenance	\$1.10	\$0 00
9	Treatment System – Trouble Calls	0 30	0.00
10	Treatment System – Equipment Replacement	1.20	1 20
	Total	\$2.60	\$1.20

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #4
Effective Date _____

**King's Chapel Capacity
Utility Costs**

All Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
11	Utility Costs – Systems with Sand/Gravel Filter Treatment	\$0.80	\$0.00
12	Utility Costs – Systems with Lagoon Treatment	0.30	0.00
13	Utility Costs – Systems with Pump Stations	0.50	0.00
14	Utility Costs – Systems with Metering Stations	0.35	0.00

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #5
Effective Date _____

**King's Chapel Capacity
Disposal System Costs**

Drip Irrigation Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
15	Disposal Costs – Preventive Maintenance	\$0 45	\$0.00
16	Disposal Costs – Trouble Calls	0 20	0 00
17	Disposal Costs – Equipment Replacement Costs	0 88	0.88
	Total	\$1.53	\$0.88

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #6
Effective Date: _____

**King's Chapel Capacity
Sampling, Testing and Reporting Costs**

All Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
18	Sampling, Testing and Reporting Costs – Systems with Dnp Irrigation Disposal	\$7 00	\$0 00
19	Sampling, Testing and Reporting Costs – Systems with Lagoon Disposal	9.20	0.00

King's Chapel Capacity
TRA #1
Wastewater Tariff

Sheet #7
Effective Date: _____

**King's Chapel Capacity
Billing and Collecting Costs**

All Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
20	Billing and Collecting Costs – All Systems	\$1 50	\$0.00

**King's Chapel Capacity
Miscellaneous Costs**

All Systems

Tariff Item #	Description	Monthly Amount	Monthly Escrow
21	Miscellaneous Costs – Rate Regulatory Expense	\$0 40	\$0.00
22	Miscellaneous Costs – Environmental Regulatory Expense	0 52	0 00
23	Miscellaneous Costs – Bonding Cost Pass Through	**	0 00
24	Miscellaneous Costs – Bonding Cost Pass Through	**	0.00
25	Miscellaneous Costs – Franchise Taxes	0 52	0 00
26	Miscellaneous Costs – Excise Taxes	0 30	0 00
27	Miscellaneous Costs – Property Taxes	0 95	0.00
28	Miscellaneous Costs – Federal Taxes	1 11	0.00
29	Miscellaneous Costs – Local Management Fee	2 00	0 00
30	Miscellaneous Costs – Corporate Management Fee	2 80	0.00
31	Miscellaneous Costs – County/City imposed Treatment Cost Pass Through	**	0.00
	Total	\$8.60	\$0.00

** These costs are passed through without markup to customers as charged by local taxing agencies.

King's Chapel Capacity

Wastewater Service Tariff

TRA #2 Rules and Regulations

RULES AND REGULATIONS

Governing the wastewater collection and treatment systems of King's Chapel Capacity.

Statement of Purpose:

The general purpose of these Rules and Regulations is:

- 1 To institute measures and procedures for serving the customers and service area of Williamson County Capacity on a uniform basis. Included are
 - a. The Definition of Terms.
 - b. The Authorization of Rules.
 - c. Identifying the Service
 - d. Establishing Property Easements.
 - e. Establishing Discontinuance of Service Policies
 - f. Stating Non-payment Penalties.
 - g. Establishing Returned Check Policy.
 - h. Establishing Policy for Changes of Property Owners or Tenants
 - i. Establishing Policy for Security Deposits
 - j. Establishing Sewer Access Fees.
- 2 To provide standards and procedures for.
 - a. Establishing wastewater characteristics acceptable for the treatment systems
 - b. Establishing the criteria for a system free of inflow and infiltration.
 - c. Required design standards.
 - d. Construction and materials standards.
 - e. Inspection Requirements
 - f. Quality of materials.

Definition of Terms:

1. Collector Line - Shall mean the line from the service line to the main line.
2. Company - Shall mean Williamson County Capacity
3. Customer - Shall mean any person, firm, corporation, association, company, or government unit furnished sewage services by Williamson County Capacity
4. Main Line - Shall mean the line from the collector line to the treatment facility
5. Operator/Engineer - Shall mean the Licensed Wastewater Operator and/or consulting engineer of Williamson County Capacity or design engineer.
6. Property - Shall mean all facilities owned and/or operated by the company
7. Pumping Station - Shall mean a tank containing pump(s) and receives effluent from a STEG/STEP tank and/or collector lines.
8. Service Line - Shall mean the line from the STEP/STEG tank to the collector line

9. STEG tank - Shall mean any tank located near a building containing an effluent filter for the purposes of accepting sewage waste.
10. STEP tank - Shall mean any tank located near a building containing a pump vault for the purposes of accepting sewage waste.
11. Stub-out line (building collector line) - Shall mean the line that carries the sewage waste from the building to the STEP/STEG tank.
12. TRA — Shall mean Tennessee Regulatory Authority.

Authorization of Rules and Regulations

King's Chapel Capacity is a corporation in good standing with the State of Tennessee and is organized as a privately owned public utility. King's Chapel Capacity operates under the auspices of a Certification of Convenience and Necessity issued by the Tennessee Regulatory Authority. King's Chapel Capacity submits the following statement of its Rules and Regulations in compliance with Rule 602.2.

Effect of Rules and Regulations

All provisions of these rules and regulations shall be incorporated in each contract with each wastewater system customer of King's Chapel Capacity.

Utility Items on Private Property

The company shall own and maintain all STEP and STEG tanks, control systems, and service lines required to provide sewer service on the customer's premises. The customer must execute an agreement granting an easement to the company for maintenance of the sewer system. The building plumbing and Stub-out line shall be maintained by the customer.

Discontinuance of Service

Service under any application may be discontinued for the following reasons:

1. Non-payment of bill as hereinafter set forth below.
2. For misrepresentation in the application.
3. For adding to the property or fixtures without notice to the company.
4. For molesting any service pipe, tank, control system, filter, or any property of the company in any way whatsoever.
5. For violation of any rules of the company.
6. For disconnecting or reconnecting service by any party, other than a duly authorized agent of the company, without the consent of the company.

Non-payment Penalties

A non-payment penalty of five percent (5%) of the monthly charge will be due after the due date shown on the bill. If payment is received within fifteen days after the due date, a written notice will be sent to the customer. If payment is not received within 15 days of the written notice, wastewater service will be turned off from the customer's property as per the Wastewater Subscription Agreement (Attachment #1) executed by the customer with no additional notice being sent. No service shall be reconnected if discontinued for non-payment (or any valid reason) until all charges have been paid, including disconnection and reconnection fees. The disconnection fee is \$10.00 and the reconnection fee is \$15.00.

Returned Checks

A check returned by the bank will incur a fee of \$20.00.

Changes in ownership, Tenancy of Services

A new application and agreement must be made and approved by the Company on any change in ownership of property, or in tenancy, or in the services as described in the application. In the event of failure of a new owner or tenant to make such application, the company shall have the right to discontinue service until such new application is made and approved.

Security Deposits

Each new customer, before connection or reconnection of the service, will be required to make a refundable deposit to secure payment of sewage service bills in an amount of \$60.00. Interest will be paid on deposits held by the company at the rate published in the *Federal Reserve Bulletin* for the preceding calendar year. Deposits will be held by the company as long as required to insure payment of bill. (TRA Rule 1220-4-4-.15(7))

Winter Water Usage Rate

Winter Water Usage shall mean the average amount of water used, as stated on the customer's bill for the months of November, December, January and February. When customer's bills are based on water usage, customers will receive summer bills (for usage in June, July, August and September) that are based on the average winter water usage. New customers that have not established winter water usage will be charged up to a maximum bill of \$125.00 until a winter water usage is established.

Sewer System Access Fee

The owner of each property parcel which is provided a tap or the availability of a tap, when the sewer system is built, will be required to pay a sewer access fee of \$84.00 per year. This fee will be payable each year by December 15th, for owners of record, as of December 1st. As each customer attaches to the sewer and signs up for service, they will pay a pro-rated access fee for that year and thereafter the fee will not be charged.

Engineering, Materials and Construction Standards

1. General — This specification covers the type of sewer system required for various design conditions of sewers constructed by developers. The requirements called for are minimum standards in all cases. Bedding conditions, material specifications, sealing requirements and installation methods are the responsibility of the Operator/Engineer and must be approved by the company. Design and construction of sewer lines shall meet the requirements of the State of Tennessee Department of Environment and Conservation (TDEC), in addition to this specification. Where conflicts exist, the more restrictive shall govern.
2. All sewage collection system components are to be water tight and free of Inflow and Infiltration. This includes Stub-out lines, all tanks, collector lines, service lines, and main lines. Collector lines and main lines are to be tested to 100 pounds per square inch of water pressure. Risers and lids are to be watertight.
3. STEP and STEG Tanks are to be installed near the building to be served. The tanks are to be set in a level condition and tested for water tightness before backfilling.
4. All pipe is to be PVC, classes and sizes will be per operator/engineer's design and in all cases SDR-21 class 2000 will be the minimum allowable.
5. Only wastewater drains are to be connected to the sewer system. No water sources such as roof drains, sump pumps, condensate lines and swimming pools shall be connected to the sewer system.

Special Pretreatment Sewage Requirements

For all sewage connections the company reserves the right to require any nonresidential user to provide special pre-treatment for any high strength effluent before discharge into its sewage system. The company may, upon the basis of recognized operator/engineering standards and treatment costs, increase the rate charged to cover the cost of treatment of high strength effluent, commercial or industrial waste, and may impose standards as to the maximum size of solids and constituents in such waste discharged into its sewage system.

Additionally, if excessive volumes of sewage are received, the company may require the customer to monitor flow volume and increase surge holding, treatment, and disposal capacity at the customer's expense. All customers will be required to follow the List of Required Practices (Biological Systems Users Manual) for an effluent collection system, supplied to them by Williamson County Capacity. (Attachment No 2). These requirements prohibit the dumping of any toxic chemicals, non-

biodegradable detergents, whitening agents, or other non- environmentally friendly compounds that kill tank bacteria. Also prohibited is the disposal of an excessive amount of grease, paints, pesticides or other typical household items that consumers introduce into sanitary sewer and storm drains.

Damages

King's Chapel Capacity shall in no event be responsible for maintaining any Stub-out line owned by the customer, or for the damages created by sewage escaping there from, or for defects in the customer's building lines or fixtures. The customer shall at all times comply with all regulations of the Tennessee Regulatory Authority and of King's Chapel Capacity. All leaks in any building pipe or fixture on the premises of the customer shall be repaired by the customer. On failure to repair any such leak, the service may be discontinued until such repairs are made

In Event of Emergency

The Company shall not be liable to the customer for interruption in service, or for damages or inconvenience as a result of any interruption, stoppage, etc., which was beyond the reasonable control of Williamson County Capacity. In the case of an emergency, call 615-370-4432 or other provided service number.

Service Area

King's Chapel Capacity will only provide service within its current approved service territory as approved by the Tennessee Regulatory Authority.

Extension Plan

King's Chapel Capacity may furnish sewer service to property owners whose lands are abut the main line of existing sewer systems. The wastewater service charges listed in the sewer billing structure do not include costs for constructing the sewer system. Any wastewater system components required to service such abutting properties shall be constructed at the cost of those parties desiring same, and these components shall become the property of King's Chapel Capacity, to be credited to the account for Contributions in Aid of Construction. In addition, treatment system component costs will be paid by the customer desiring to hook on to the system. Wastewater service to new areas within a service territory will be made available where it is technically feasible and the developer or property owner is willing to bear the expense of designing and building the sewer system.

Contributions in Aid of Construction

Wastewater system components furnished by developers and landowners to King's Chapel Capacity will be recognized as Contributions in Aid of Construction in the amount of actual construction cost

Contracts for Services

Each customer, before installation of service, shall be required to execute a sewer service agreement with King's Chapel Capacity.

Customer Billing

Customer billing may be different from area to area. If the area is serviced by a utility water service, the water provider will be requested to provide billing services. For flat fee areas a coupon book will be provided on an annual basis with monthly statements. Water bill comparisons or metering may be employed if higher water usage than typical is suspected.

In cases where pass through treatment costs and commercial customers are involved, a monthly bill will be sent to the customer and will be based on the gallons of water consumed.

Public Contact

John Powell, President
King's Chapel Capacity
1413 Plymouth Drive
Brentwood, TN 37027

Phone: 615-370-4432

Tennessee Regulatory Authority Regulations

Williamson County Capacity in its operation, shall conform to all applicable rules and regulations promulgated by the Tennessee Regulatory Authority. Phone 1-800-342-8359.

SEWER SUBSCRIPTION CONTRACT

Printed Name

Address of Property

Mailing Address

Telephone Number

I hereby make application to King's Chapel Capacity for wastewater service at the address of property stated above. In consideration of the undertaking on the part of King's Chapel Capacity to furnish wastewater service, I understand, covenant and agree as follows:

1 I understand that components of a wastewater system have been installed on the property referred to above, which is owned or occupied by me, and which is to be connected with a wastewater disposal system owned and/or maintained by King's Chapel Capacity. I warrant that any connection to and/or subsequent use to this system by the components on my property shall be in accordance with the Rules and Regulations and Plans of King's Chapel Capacity. Regarding my usage of the system components on my property, which are owned by me, I covenant to follow the guidelines set forth in the Biological Users Manual (List of Required Practices). Should I violate these Rules and/or abuse or damage my components, I understand that I must bear the expense to repair or replace the same in accordance with the Plans of King's Chapel Capacity.

2 I acknowledge King's Chapel Capacity, its successors and assigns have a perpetual easement in, over, under and upon the above specified land as shown on the property plat, with the right to operate and repair all components of the wastewater system on my property, including but not limited to the septic tank, the STEG (Septic Tank Effluent Gravity) or STEP (Septic Tank Effluent Pumping) system. I further grant King's Chapel Capacity permission to enter upon my property for any reason connected with the provision or removal of wastewater service or collection therefore.

3 For all other plumbing and structures on the property, including the out fall line to the septic tank, I agree that I am responsible for all operation and repair thereof.

4 I hereby authorize King's Chapel Capacity to purchase and install a cutoff valve on my side of my water meter and grant King's Chapel Capacity exclusive right to use such valve in accordance with its Rules and Regulations. However, the use of this valve does not in any way relieve me of my obligation to pay for water service to the service provider.

5 I understand and agree to pay a security deposit of \$60.00, to promptly pay for service at the then current schedule of rates and fees and agree to abide by and be subject to King's Chapel Capacity's billing and cutoff procedures. Should I not pay in accordance with King's Chapel Capacity's Rules, I agree to pay all costs of collection, including attorney fees.

6 I accept the current Rules and Regulations and the Rates and Fees Schedule and agree to abide by any amendments to such Schedules.

7 I agree that this Agreement shall remain in effect for as long as I own, reside upon or rent the above-described property. When such circumstances no longer exist, I agree to provide notice to King's Chapel Capacity at least thirty (30) days in advance of my vacating the property.

Subscribers Signature

Date

King's Chapel Capacity

List of Required Practices

BIOLOGICAL SYSTEM USER MANUAL

The ability of your natural and biological systems performance is affected by the materials introduced into the system. The following is a summary of some of the items that are bad management and good management practices. A knowledgeable user can prevent premature failures and eliminate costly repairs.

Items that cause problems and failure of this system are:

- Garbage disposal use
- Excessive sludge or scum accumulation in septic tank
- Improper fabric softeners and whiteners
- Grease and oils from cooking and washing
- Hair
- Disposable and non-disposable diapers, rags, cigarette butts, coffee grounds, feminine hygiene products, plastic and rubber products, condoms, and chemical cleaners
- Any non-biologically degradable substances
- Water usage over design limits

A properly maintained septic tank provides a high degree of treatment and yields an effluent that is relatively free of grease and solids that can clog the effluent. The best practice is not to discharge anything into a septic system that is poisonous or that may inhibit the abilities of the biologically functioning septic tank. A good rule of thumb should be to not discharge anything into the system that can not be ingested. This would not include toilet paper and mild detergents.

The following management practices and recommendations should be followed:

GOOD MANAGEMENT PRACTICES

- Communicate with the operator or the operator's assistant (Operator) if anything about your system is out of the ordinary. Upon the first indication of a visual or audible alarm, call the Operator
- Contact King's Chapel Capacity prior to the installation of any new landscaping or the construction of permanent structures. It will be critical to coordinate any work to ensure that the integrity of the biological system and lines are protected.
- Maintain toilet bowl hardware so as to prevent leaky conditions and excess water use and waste.
- Collect grease in a container rather than pouring down the drain.

POOR MANAGEMENT PRACTICES

- Don't connect rain gutters or storm drains or allow other surface water to get into your septic system.
- Don't use excessive quantities of water. Use water saving devices such as low flow shower heads and low volume flush toilets.
- Don't allow toilets to become a problem. Repair leaky toilets, faucets, or plumbing fixtures (leaky toilets can result in flows of 1,000 gallons or more per day).
- Don't dump recreational vehicle (RV) waste into your septic tank.
- Don't flush undesirable substances into the sewer **Flushing flammable and toxic products is a dangerous practice.** Other materials such as paper towels, rags, newspapers, cigarettes, coffee grounds, egg shells, sanitary napkins, condoms, large amounts of hair, and cooking grease are a maintenance nuisance and will result in frequent pumping of septage from the tank.
- Don't use garbage disposal systems to dispose of non-biodegradable materials because they increase the amount of solids entering the septic tank and will increase the frequency required for septage pumping. **Do not pour grease down the drain.**
- **Don't drain water softener backwash into the tank.** The backwash brine contains high levels of chlorides that can destroy the balance of the biological system, affect soil performance, and break down components of the system. The brine solution also interferes with the solid's sedimentation that occurs in the tank.
- Don't use special additives in your tank **Additives do not improve the performance of the septic tanks and can cause major damage to other areas in the collection and treatment system.**
- Don't flush cat litter box medium down the toilets.

King’s Chapel Capacity

Wastewater Service Tariff

**TRA #3
Residential Services**

King’s Chapel Capacity
TRA #3
Wastewater Tariff

Sheet #1
Effective Date: _____

**King’s Chapel Capacity
Wastewater Service Billing Summary**

System	Monthly Charge
Ashby Communities – Sheet 2	\$40.22

**King's Chapel Capacity
Ashby Communities Billing Rates**

	Monthly Charge	Escrowed Amount
Collection System Operation and Maintenance (Tariff Items 1 - 4)	\$8 95	\$6 35
Treatment System Cost (Tariff Items 5 - 7)	6 23	2 90
Utility Cost (Tariff Items 11 and 13)	1 30	0 00
Disposal System Cost (Tariff Items 15 - 17)	1 53	0 88
Sampling and Testing Cost (Tariff Item 18)	7 00	0 00
Billing and Collection Cost (Tariff Item 20)	1 50	0 00
Miscellaneous Cost (Tariff Items 21 - 30 excluding Bonding)	8 60	0 00
Bonding Cost (Pass Through) **	5 11	0 00
Total	\$40.22	\$10.13

Incidental Rates:

Late Payment	5% of Bill
Disconnection	\$25 00
Reconnection	\$15 00
Returned Check	\$20 00
Access	\$84 00

** Bonding Cost incurred is passed through to the customer with no markup by the Company.

Total Bonding Cost

Amount of Bond	\$1,649,748
Interest Rate	1%
Number of Lots	269
Months per Year	12
Total	\$5.11



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243-1634

October 15, 2004

Mr. John Powell
Vice President
Kings Chapel Community Association, Inc.
1413 Plymouth Drive
Brentwood, TN 37027

Subject: NPDES Permit Tracking No. SOP-04056
Kings Chapel Community Association, Inc.
Williamson County, Tennessee

Dear Mr. Powell.

The Division of Water Pollution Control acknowledges receipt on September 28, 2004, of your application for a state operating permit to operate a wastewater treatment and drip irrigation disposal system for the Arrington Meadows Subdivision doing business as a homeowners association.

As my staff has already discussed with you, state regulatory agencies prefer, whenever possible, to issue permit coverage for systems serving private residences to entities with accountability to the served public. Such entities include governments, governmental agencies, or public or private utility districts and commissions. The division is now aware via correspondence with the Tennessee Regulatory Authority (TRA) that you have applied for authorization from the TRA to operate as a privately owned public utility doing business as Kings Chapel Capacity, LLC (ID # 04-00335). Furthermore, the division understands that application by the association was only meant as a temporary permitting measure while authorization via the TRA is pending.

Please be advised that since the non-profit LLC has been established and it has made application with the TRA, the division can consider permit action with the privately owned public utility if the current application is amended. This may be done by letter. The letter need only reference the tracking number SOP-04056 and state the applicant name and address and signatory as appropriate. You are further advised that a permit (SOP-03032) was previously issued to Tennessee Wastewater Systems, LLC for the operation of this wastewater disposal system. We intend to pursue termination of this permit. The issuance of your permit cannot be finalized until the termination process is complete.

John Powell
Kings Chapel Community Association
SOP-04056
Page 2 of 2

If you have questions, please contact Wade Murphy in the Division of Water Pollution Control at (615) 532-0666 or by E-mail at Wade.Murphy@state.tn.us.

Sincerely,



Edward M. Polk, Jr., P.E.
Manager, Permit Section
Division of Water Pollution Control

EMP/wdm

cc: Darlene Standley, Tennessee Regulatory Authority, 460 James Robertson Parkway
Division of Water Pollution Control, Municipal Facilities Section
Division of Water Pollution Control, Permit Section
Division of Water Pollution Control, Environmental Assistance Center - Nashville

(F)

BONE MCALLESTER NORTON PLLC
www.bonelaw.com

Sharon O. Jacobs
(615) 238 6306 Direct Line
(615) 687 2761 Fax Line
sjacobs@bonelaw.com

October 22, 2004

HAND DELIVERY

Paul Davis, Director
Tennessee Department of Environment and Conservation
Division of Water Pollution Control
401 Church Street
L&C Tower 6th Floor
Nashville, TN 37243-1534

Edward M. Polk Jr., P.E.
Manager, Permit Section
Division of Water Pollution Control
401 Church Street
L&C Tower, 6th Floor
Nashville, TN 37243-1534

**Re: Permit No: SOP-03032
Tennessee Waste Water Systems, Inc.
f/k/n/a On Site Systems Inc.
College Grove, Williamson County, Tennessee**

Dear Paul Davis and Mr. Polk

On behalf of this firm's clients, Pickney Brothers Inc and Tennessee Wastewater Systems, Inc f/k/n/a Onsite Systems Inc ("the Utility"), this letter shall serve as the official response to your letter dated October 15, 2004, wherein you have informed our clients that Mr John Powell of Kings Chapel Community Association Inc has submitted a permit application to operate the wastewater treatment and disposal system ("the System"), which is solely owned by our clients. Please be advised of the following three (3) critical facts: (1)the Utility owns the System, (2)the System was created under the terms of a contract with Powell, and (3)the contract is currently under dispute subject to a final disposition in a Tennessee court.

Further, Pickney Brothers, Inc is the author and co-owner with Tennessee Wastewater Systems, Inc of the copyright in the System and in the Engineering Report dated October 9, 2003 (which was reviewed and approved by Mr Mike Thornton), all technical drawings dated October 9, 2003.

October 21, 2004

Page 2 of 3

2003 (submitted to the Division for approval), and the Design Development Reports and the Detailed Soil Investigation Report dated July 16, 2003 ("the Reports") The Utility has made all the proper applications to the U S Copyright Office to register the copyright in the System and the Reports Therefore, any use by a party, other than the Utility, of the System or of the Reports is an infringement of the Utility's copyrights and is a violation of the U.S Copyright Law, pursuant to 17 U S C §§ 106, 501

Pursuant to your letter, you requested a copy of the contract between our clients and John Powell The contract provides the terms for the ownership, operation and maintenance of the sewer services for the Arrington Meadows Chapel subdivision located in Williamson County. Attached for your files is an additional copy of the contract, I understand our clients provided a copy of the contract previously to Mr Wade Murphy with your Division. Exhibit 1 The contract clearly provides that in addition to being the sole owner of the system and provider of all utility services to the subdivision, the Utility is solely responsible for all permitting from TDEC and the Tennessee Regulatory Authority TDEC correctly issued the above referenced permit to the correct entity Mr Mike Thornton has inspected the system and may attest to its completion. In addition, you may consult with Mr. Thornton as he is familiar with the Utility's operations and the Systems it owns across the State of Tennessee The Utility currently owns and operates over 20 facilities virtually identical to the System it owns in Williamson County.

Based on your letter, it appears that you have been given incorrect information Enclosed is a copy of the legal Memorandum from Williamson County with regard to Powell's request to circumvent the Utility Powell's proposal to the County was for Kings Chapel Community Association Inc to operate the Utility's System. See Exhibit 2. The legal memorandum issued by the County's attorney, Ms. Christie D Earwood, Esq addresses Powell's attempt to circumvent the Williamson County Subdivision Regulations which prohibit any homeowners association from owning and operating a wastewater treatment and disposal system. See Page 3. Further evidence of our clients' ownership rights may be found on page 5 of the legal opinion which confirms all reports and easements are in the name of the Utility In addition, the letter identifies that the real issue between the two private entities is merely a contractual dispute Thus, the County found that Kings Chapel Community Association would not be recognized as an entity for the operation of the Utility's System


Please be aware, Mr Powell has also filed a request with the Tennessee Regulatory Authority If the Division desires a copy of the application and/or the objection filed before the Tennessee Regulatory Authority please let me know as I would be happy to provide you with copies Enclosed for your file is proof the TRA granted a certificate of convenience and necessity to the Utility as the private utility holding the certificate as the owner The certificate provides that the Utility "shall provide public sewer services to the Arrington Meadows Chapel Subdivision" Exhibit 3 Clearly, if you refer to the contract between our clients and Mr. Powell, our clients are in compliance with the contract, as they are responsible for all permitting for the Utility's System

October 21, 2004
Page 3 of 3

It has recently come to my attention that you officially informed Mr. Powell that intend to terminate our clients' permit. Please inform me in writing the evidence and grounds upon which you rely to terminate the permit. Our client will appeal any termination of the permit to the Board if the Division intends to proceed with termination of the permit. In addition any attempted infringement upon our clients' copyright shall be pursued. Thus, please provide copies to me of all engineering reports, technical drawings and maps that have been submitted by Mr. Powell to ensure no infringement has occurred. Thank you in advance for your cooperation in this regard.

On behalf of our clients, we respectfully request that any future documents and/or communication with regard to our clients' permit include myself. If you have any questions and/or concerns with regard to this permit, please do not hesitate to contact me. Once you have had the opportunity to review the enclosed materials, I welcome the opportunity to discuss your comments.

Sincerely,



Sharon O. Jacobs

Attachments

cc Ken Larish, Esq
Charles Pickney

SEWER CONTRACT FOR MEADOWBROOK SUBDIVISION

This AGREEMENT made and entered into this 3rd day of November 2003, by and between Onsite Systems, Inc., hereinafter referred to as "Utility", Onsite Capacity Development Company hereinafter referred to as contractor, and J.Powell Development LLC, hereinafter referred to as "Developer".

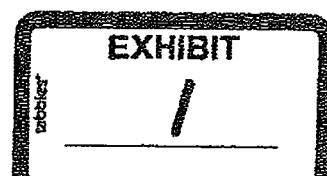
WITNESSETH

For and in consideration of the construction costs hereinafter mentioned and the mutual promises of the parties hereinafter contained, particularly that Developer will be responsible for construction of collection system upstream of the pump station, the Contractor will be responsible for the design, and construction of collection system, pump station, force main from pump station to treatment system, the recirculating gravel filter and drip irrigation disposal system; the Utility will be responsible for repair, maintenance and replacement of said sewers herein provided for, and to maintain the total system as required by the Tennessee Department of Environment and Conservation, Water Pollution Division and the Tennessee Regulatory Authority; the developer to pay for cost of construction and other cost as specified herein, and other good and valuable considerations, the receipt of all which is acknowledged, the parties hereto have entered into the following agreement.

The developer is to install collection system, etc in accordance with drawings, plans, and specification as shown on the plat of subdivision which is attached hereto, and the plans and specification as approved by the Utility's engineers, the State of Tennessee and the Williamson County Planning Commission which said plans and specifications are attached hereto and made a part of this contract.

The contractor is to perform all of the necessary work for the design and installation of treatment and disposal systems, completely install the same at no cost whatsoever to the Utility, all in accordance with plans and specifications hereinabove referred to, and for that purpose has entered into a contract for completion of this work.

All construction begun, continued and completed hereunder shall be subject to the supervision and approval of the Utility's engineers and representatives who shall have a continuous right of inspection throughout the progress of the work. No pipe, fittings, or connection shall be covered until inspected and approved by the Utility. It is specifically understood and agreed that all installation costs, for said installation of the sewer collection system main lines, filter system and drip irrigation system will be paid for by the Developer. The homebuilder will pay for the cost of installing the tanks, pumps and associated equipment at each house.



In the event of a change in the drawings or plat of the subdivision by agreement of the parties, prior to the actual installation of the facilities provided for in the plans and specifications, then such change shall be deemed incorporated in this contract, as though set out verbatim herein, and a copy of said changed plans shall be attached to this contract and made a part hereof. It is further understood that such changed plans, if any, may be looked to for a total description of the properties conveyed to the Utility by the Developer

The Developer further agrees.

That the Developer will immediately repair at its own cost and expense all breaks, leaks or defects of any type whatsoever arising in the collection system from any cause whatsoever occurring within one (1) year from the date of acceptance by "Utility" of said lines, mains, valves, fittings, etc., which are constructed by Developer

The developer will pay a \$550,000 for the construction of the sand filter, drip irrigation system as construction progresses. Payments will be made on monthly basis no later than 5 days after bank has funded to developer that portion of completed work. Developer will pay an additional \$3366 per lot, when lot is sold to end user (homeowner) for all lots located in the property owned by Hang Rock, LLC and Arrington Meadows LLC.

Developer will be responsible for posting all performance bonds and cost relating to such bonds, required by Williamson County concerning Meadowbrook Wastewater System

The developer as a part of his construction contract shall install Service connections for all service sewers to the property line of each lot in said subdivision.

Upon the completion of the installations contracted for herein, the Developer and contractor hereby represents and warrants that no liens or encumbrances shall remain for the installation of said work and that Utility will be held harmless for any claims arising from the construction of said system.

The Utility has contracted with Jarrett Concrete Products and Supply (Hereinafter Jarrett) of Ashland City (792-9332) and Effluent Collection Supply of Smyrna- 793-1291 (Hereinafter ECS) to supply most of the materials for the septic tank installation.

Jarrett will supply all Septic Tanks required for each lot. All houses six bedrooms or less will require a 1500-gallon tank with a four-inch Orenco gravity filter. Larger house will be considered on a case by case basis. The price for 1500-gallon tanks delivered and set will be \$850 each. Prices for tanks are guaranteed not to increase more than 5% per year. ECS or Jarrett may supply Effluent filters, risers and lids. ECS prices are as follows

Four-inch gravity filters - \$58.00
24" - DIA x 24 tall riser - \$59.00
24" - DIA Lid - \$52.72

If pumps and controls are needed, they will be supplied at the usual contractor price
Sales tax not included in above prices

By the execution of this agreement, the Developer hereby represents and warrants that said sewerage system will be installed in accordance with the foregoing provisions and the plans and specifications, and that written easements will be provided five feet (5') in width on each side of the center line of all sewers installed hereunder other than sewers installed along the public right-of-way

IN WITNESS WHEREOF, the parties hereto have entered into this agreement as of the day and date first above written.

By [Signature] Date 10-3-03
Onsite Systems, Inc.
Robert Pickney, Vice President

By [Signature] Date 11-8-03
Developer -

By [Signature] Date 10-3-03
Onsite Capacity Development Company
Robert Pickney - Managing Partner

BUERGER, MOSELEY & CARSON, PLC
Williamson County Attorneys
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Franklin, TN 37064
(615) 794-8850
(615) 790-8861 Fax



KRISTID EARWOOD

MEMORANDUM

TO: Honorable Rogers Anderson, Williamson County Mayor
Honorable John Lackey, Chairman, Williamson County Planning Commission
and Water and Wastewater Authority

cc: Mr Joe Horne, Community Development Director
Mr Greg Langeliers, Planning Director
Mr Richard Militana, Counsel for John Powell
✓Mr Ken Larrish, Counsel for On-Site Systems, Inc

FROM: Kristi D Earwood *KDE*

DATE: October 8, 2004

RE: Kings Chapel Subdivision - Wastewater Treatment and Disposal Proposal

As you know, on September 27, 2004, we met with John Powell, one of the developers of Kings Chapel Subdivision, his attorneys, Richard Militana and Joe Baugh and his consultant, Hal Novak. Mr. Powell read a statement and presented additional information concerning a proposal for the treatment and disposal of wastewater for Kings Chapel Subdivision. In this memorandum, I will attempt to provide sufficient background on this subdivision, a statement of the current circumstances and my legal conclusions and recommendations regarding Mr. Powell's proposal.

A site plan was provided for Meadowbrooke subdivision containing an alternative wastewater treatment and disposal system. Along with the site plan, a Design Development Report and Detailed Soils Investigation Report was also submitted. The system proposed was a closed sand filtration system with individual septic tanks on each lot and disposal by drip irrigation. Based upon this site plan, a preliminary plat was approved on October 9, 2003, and then a final plat was approved on June 10, 2004 for the first section containing the alternative wastewater treatment and disposal system.

The plats showed at all times that the owner and operator of the system would be On-Site Systems, Inc. I have since learned that On-Site Systems, Inc. is now called Tennessee Wastewater, Inc. It is my understanding that the Tennessee Regulatory Authority (TRA) previously approved

EXHIBIT

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On-Site Systems, Inc. to service the area within which Kings Chapel is situated, along with the subdivision across the highway called Blackhawk. The TRA granted a certificate of convenience and necessity for On-Site Systems, Inc., a private utility, to provide public sewer services to this area.

The original bonding amount required for both the primary and back-up wastewater system was incorrectly stated at the time of final plat approval. Therefore, as a matter of Old Business and with the concurrence of the applicant and the recommendations by Williamson County's consultant, the Williamson County Planning Commission approved the proper bond amounts for the wastewater system for Kings Chapel on August 12, 2004. For the sake of continuity, all bond amounts were re-approved on the same date as well. The Williamson County Subdivision Regulations state that the required bonds shall be posted within sixty days after approval of the final plat. Williamson County Subdivision Regulations Section 3.2(4)(i). The plat must then be registered within thirty days after the bonds have been posted. Williamson County Subdivision Regulations Section 3.2(4)(i). Since the bond amounts were approved on August 12, 2004, Kings Chapel has until October 11, 2004 to post its bonds and then the final plat must be recorded by November 10, 2004 or it becomes void. If these deadlines are not met, re-approval of the final plat by the Williamson County Planning Commission is required.

Mr. Powell contacted me by telephone on July 29, 2004 regarding the re-approval of all bonds for consistency. In the course of this conversation, he indicated his desire to obtain a new operator for his wastewater system. It was my opinion then that if Mr. Powell was merely substituting one operator for another with the written approval of the TRA and the transfer of the State Operating Permit by the Tennessee Department of Environment and Conservation (TDEC) and that nothing else about the plat would change, then such may be considered a minor change and may not require a re-review by Williamson County Planning Commission, however, I expressed my doubt that same could be accomplished by the final plat deadline. I was assured by Mr. Powell that it could.

During the course of these reviews by the Williamson County Planning Commission for Kings Chapel, the subdivision across the street, Blackhawk, sought approval to utilize the Kings Chapel treatment system and its own land for disposal, despite the fact that Blackhawk had a previously approved subdivision final plat utilizing subsurface sewage disposal on individual lots. Blackhawk was approved for same. Mr. Powell has indicated that his proposal would encompass again providing wastewater treatment and disposal for Blackhawk; however, Blackhawk has re-submitted a final plat for the October, 2004 Planning Commission meeting with lots again containing individual subsurface sewage disposal systems. As a result, for purposes of this memorandum, any opinions offered or legal conclusions reached only address the proposal by Mr. Powell for Kings Chapel Subdivision.

It is my understanding that Mr. Powell and the owner of On-Site Systems, Inc. (now Tennessee Wastewater) have become embroiled in a contractual dispute. I have heard the positions

of both parties as a courtesy, but have maintained to both parties that my sole responsibility is to my client, Williamson County and its Planning Commission, and offering my client my opinion on what is permitted according to State law and regulations and local ordinance and regulations

The proposal from Mr Powell, as I understand it, is for the following to occur:

- 1 The Homeowners' Association (HOA) of Kings Chapel will own the land and facilities required and designated for the alternative wastewater treatment and disposal system
- 2 The HOA will contract with an approved operator
- 3 The HOA will post required bond amounts for the primary and backup systems
- 4 The HOA's covenants and restrictions will be amended to permit same and will automatically transfer authority to own and operate the system to an entity approved to do so by TDEC and the TRA within twelve months.
- 5 The HOA will obtain a State Operating Permit from TDEC.
- 6 The HOA is not required to obtain approval from the TRA
7. Mr Powell has the authority to transfer ownership in the land upon and within which the wastewater system is constructed as well as the septic facility to the HOA
- 8 The final plat is not required to return to the Williamson County Planning Commission for re-approval
- 9 The HOA president will sign the final plat in lieu of On-Site Systems, Inc. as the wastewater operator.

I have a number of concerns about this proposal and will address each one in turn

A Homeowners' Association (HOA) is prohibited by the Williamson County Subdivision Regulations from owning and operating a wastewater treatment and disposal system.

Section 5.6(1)(a) says that "[n]o subdivision shall be approved until provisions are made for the adequate disposal of wastewater for the site."

Section 5 6(1)(b) states that "[a]ll public sanitary sewer systems shall be approved by the appropriate State authority"

Section 5 6(2) only anticipates that a "governmental entity or utility company" will provide sewer service and it must issue written intent to service this subdivision. The Williamson County Regulations for Wastewater Treatment and Land Disposal Systems require that the system be owned and operated by the same entity. Section 1.11. Additionally, Section 1 6 requires that where another regulation, law or statute differs, then the more restrictive or higher standards shall control.

Clearly the Subdivision Regulations supplement the wastewater regulations in this case and are more restrictive. Furthermore, to even demonstrate that a HOA is eligible to serve Kings Chapel it must be in existence legally, it must have a State Operating Permit from TDEC and it must have approval from the TRA. I have received no proof that the HOA has been or will be granted a State Operating Permit to operate the system currently being operated by On-Site Systems, Inc. (Tennessee Wastewater). It is my understanding that On-Site Systems, Inc. will oppose any attempts by TDEC to transfer its State Operating Permit to another entity and that it will assert any right it may have in the engineered plans and designs upon which its State Operating Permit application was based. Regardless, again, because of those assertions by both parties, I cannot recommend that my client approve a proposal where there are so many unanswered questions.

Further, although Mr. Powell and his consultant, Mr. Novak, indicated that the TRA does not regulate HOA's, my research indicates otherwise. The TRA is statutorily charged with regulating public utilities, most importantly in this context, public utilities that provide "water or other like systems." Tenn. Code Ann. § 65-4-101(a). The TRA has chosen to extend its authority to those private companies providing public sewer utility services by granting a certificate of convenience and necessity. It is my understanding that On-Site Systems, Inc. (Tennessee Wastewater) has been granted such certificate for an area that encompasses the location of Kings Chapel. Tennessee Code Annotated Section 65-4-101(b) specifically excludes "nonprofit homeowners' associations or organizations whose membership is limited to owners of lots in residential subdivisions, which associations or organizations own, contract, operate or maintain water, street light or park maintenance service systems for the exclusive use of that subdivision; provided, that the subdivisions are unable to obtain such services from the local utility district. None of the property, property rights or facilities owned or used by the association or organization for the rendering of such services shall be under the jurisdiction, supervision or control of the Tennessee Regulatory Authority."

It is my opinion that the HOA in this proposal by Mr. Powell is not exempt from TRA regulations because it is proposing to operate a wastewater system. The definition of public utility found in Tennessee Code Annotated Section 65-4-101(a) includes "water . or other like systems." The exemption in Tennessee Code Annotated Section 65-4-101(b) has no such language. The exemption is limited to water, street lights and park maintenance. Mr. Powell's proposal encompasses none of these. The General Assembly specifically exempted a few services. The

intent is clear. Where a HOA is providing wastewater treatment, the TRA supervision and control governs. I have no proof that the TRA has approved this HOA to operate in an area previously designated for another public utility nor do I have any formal information of its declination to regulate same.

Mr. Powell has proposed an amendment to the HOA covenants and restrictions previously recommended for approval by me and confirmed by the Williamson County Planning Commission. Any major change to the substantive provisions of the documents such as proposed must be considered by the Williamson County Planning Commission. Williamson County Zoning Ordinance § 9503 (c)(3).

Mr. Powell has proposed merely substituting the HOA for On-Site Systems, Inc. (Tennessee Wastewater) as the utility provider on the approved final plat. I cannot recommend the approval of such proposal without reconsideration by the Williamson County Planning Commission. In fact, it is my recommendation that the site plan of Kings Chapel be resubmitted along with amended design development reports and detailed soil investigation reports, because the proposal is of such significant change as to require re-review. The ownership of the system has changed. The maintenance responsibility of pumping the septic tanks is no longer addressed. The design development reports and detailed soil investigation reports were submitted by On-Site Systems, Inc. How will another entity propose to complete and operate this system? The easements on the plat indicate they will be granted to On-Site Systems, Inc. Both the Preliminary Plat and Final Plat were approved based upon a set of conditions and assertions in the site plan that have significantly changed. The Williamson County Planning Commission has a duty to the public to carefully consider the effects a new development will have. I cannot recommend an amendment as significant as that proposed to proceed on staff approval alone. At a minimum, a minor revision to a plat is only defined as an "adjustment that will not impact proposed or existing public improvements involving two or fewer building lots." Williamson County Subdivision Regulations 3.2(5). Since this revision involves all building lots, the common area and the easements for the lots, as well as the area to be owned for the wastewater treatment and disposal system, such change is more than a minor revision of the final plat, but a revision of the entire plan of service to the subdivision.

Even assuming TDEC grants the State Operating Permit to the HOA and even assuming TRA chooses not to regulate the HOA, and even assuming a HOA can own and operate in Williamson County, I cannot recommend that a HOA be granted authority to operate this wastewater treatment and disposal system because the current utility has expressed an ownership interest in the facilities in the ground. There appears to exist a conflict between Mr. Powell and On-Site Systems, Inc. (Tennessee Wastewater) over who owns the actual system, which is, for the most part, already installed and constructed. Mr. Powell asserts he has ownership in the real property upon and within which this system is installed and constructed, yet On-Site Systems, Inc. (Tennessee Wastewater) by and through its counsel, asserts an ownership interest in the facilities. Where no clear ownership is evident, I cannot recommend to the Williamson County Planning Commission that a clear utility provider is even available. The Regulations for Wastewater Treatment and Land Disposal Systems

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in Williamson County requires both ownership and operation of the system. See Section 111. This conflict between Mr. Powell and On-Site Systems, Inc. provides a direct violation of this Section.

Furthermore, I am concerned that there seems to be many entities involved with no proof of who has the clear authority to bind any one of them. As previously indicated, the utility provider is listed on the Final Plat as On-Site Systems, Inc. It is my understanding now that it is called Tennessee Wastewater. Who holds the State Operating Permit for Kings Chapel? Who is granted the certificate of convenience and necessity for this area by the TRA? If there was a name or change of entity, was it filed with the Secretary of State? Approved by the TRA? TDEC? Mr. Powell indicates he can bind the land in Kings Chapel, however, the Final Plat evidences four different entities: Hang Rock, LLC, Over-the-Branch, LLC, King's Camp and Arrington Meadows, LLC. Again it has been suggested that a HOA also exists. Are all of those entities still in existence? Who has the authority to bind same? These issues must be clarified.

In conclusion, I cannot recommend that the Williamson County Water and Wastewater Authority and the Williamson County Planning Commission recognize a HOA as an entity permitted to own and operate an alternative wastewater treatment and disposal system in Williamson County. Regarding this particular system, as I have outlined, there are too many unanswered questions to even place a proposal on a docket for consideration by the Williamson County Planning Commission for another operator who is not a HOA at this time. I will be happy to revisit this issue once some of the questions are answered, but in the meantime, I cannot advise the Williamson County Planning Commission staff to approve the final plat as is where no utility provider exists.

As a separate issue, Mr. Powell had requested of the County Mayor a letter indicating that Williamson County does not intend to serve sewer to the area of Kings Chapel at this time. Although Williamson County does not currently provide public sewer, it is my opinion that a letter would be premature without consultation with the Williamson County Wastewater Authority. Furthermore, the County Mayor may wish to conduct public hearings in the area where two or more entities seek to serve a certain area. For these reasons, at this time I cannot recommend providing such correspondence.

Should you desire any additional information or wish to discuss the above, please do not hesitate to contact me.